

**RESOLUTION NO. 2016-**

**RESOLUTION AUTHORIZING ISSUANCE OF SEASONAL RETAIL CONSUMPTION  
LICENSE TO D'JAIS LLC, T/A D'JAIS FOR THE PERIOD ENDING  
JUNE 30, 2017**

WHEREAS, an application was made by D'Jais, LLC, t/a D'Jais 1801-1803 Ocean Ave. for renewal of their Seasonal Retail Consumption License No. 1306-34-003-003; and

WHEREAS, said application is accompanied by Affidavit of Publication and by reports from Borough Inspection Officials, Chief of Police, Fire Official and Health Officer; and

WHEREAS, said licensed premises at 1801 Ocean Ave. is licensed including the open porch between 1801 and 1803 Ocean Ave. The following areas are not part of the licensed premises, the existing snack bar or coffee shop, sitting rooms, lobby counters and outside counters.

WHEREAS, said the licensing renewal term is July 1, 2016 to June 30, 2017, however said license is only permitted to be operational from July 1, 2016 to November 14, 2016 and May 1, 2017 to June 30, 2017.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Belmar that a Seasonal Retail Consumption License be and is granted subject to the following special conditions:

1. Service and sale of alcoholic beverages is to be permitted only in the licensed areas as described above.
2. No alcoholic beverages shall be sold, served, delivered to, or consumed in the license premises during such time as the number of persons, exclusive of employees, occupying the licensed premise exceeds the occupancy limit established herein or by the Fire Official, whichever is less.
3. That the licensees provide the Chief of the Belmar Police Department, in writing, with the names and addresses of all employees.
4. That all floor men and security personnel of the licensee shall attend an in-service seminar concerning their duties and responsibilities. Said seminar shall be scheduled and conducted by the Belmar Police Department.
5. Licensee shall maintain counting system at each entrance to and exit from the licensed premises and at the entrance of each room within the premises to ensure compliance with occupancy limitations.
6. Occupancy is limited to six hundred and seventy six (676) seated inside and seven hundred or forty one (741) standing room only inside as set by the Borough of Belmar Fire Official and is subject to compliance to applicable ordinances and laws relating to zoning within the Borough of Belmar.
7. Outdoor dining area will have no alcohol service after 1 a.m. and there will be no amplified music at anytime in this area.
8. When drug activity is observed by any of their employees they will notify the police. This includes any suspicious activity.
9. All bottled water will be sold in clear bottles.
10. No Refrigerated truck allowed in parking area without prior approval from Council.
11. All lines at all times shall be maintained to ensure they do not interfere with sidewalks and the safe and efficient ingress and egress to the licensed establishment.
12. The change in the type of music played to a more calm, or as described, "mellow" type of music shall begin at 1:15 a.m.
13. All sales of alcoholic beverages shall cease at 1:30 a.m. and no announcement shall be made that it is last call or using words to that effect.

14. The licensee shall maintain a no entry list, which is a list of persons who the licensee does not permit in the establishment.

15. The licensee shall ensure that all employees who are involved with the sale and/or service of alcohol or who are involved with checking identification and/or handling of intoxicated and/or unruly patrons or who are involved in security; i.e. floor men, waitresses and bartenders have undergone TAMS training within 30 days of being hired; records of this requirement are to be maintained by the licensee.

16. The D'Jais employees involved in some of the incidents forming the basis of some of the Charges brought by the Borough in 2007, being: Randolph Mapoy and Bryan Kenney shall no longer be employed by D'Jais.

17. Off-Duty Police Officer.

A. An off-duty Belmar Police Officer will be stationed in the vicinity of the D'Jais property, but no further than 100 feet from the property, on Friday, Saturday and Sunday evenings and on Holidays and on the night before Holidays (unless D'Jais is not open for business) from approximately 6:30 p.m. to 2:30 a.m. subject to adjustment as set forth herein. The Officer may call for on-duty back-up Officer(s) as may be required in the Officer's judgment: however, D'Jais responsibility for the cost of the back-up Officer(s) is limited as further detailed herein. The cost of the Officer assigned to D'Jais shall be paid out of the escrow to be posted as further detailed herein. The reasonable cost of any back-up Officer(s) where the call involves a brawl or act of violence or any incident that would qualify as a Disorderly Conduct charge under NJSA 2C:33-2 or a Fighting and Disorderly Conduct charge under Belmar Borough Ordinance 16-15 on or about D'Jais property or otherwise attributable to D'Jais employees, whether or not such charge(s) is made, shall be paid out of the escrow to be posted as further detailed herein, provided, however that any time for the transportation of individuals to the Belmar Police Department lock-up shall not be charged to the escrow.

The exact times the off-duty Officer will be assigned to D'Jais on any specific night or whether an Officer will be posted on any particular night, shall be determined by the Chief of Police, or his designee (hereinafter "Chief") in consultation with D'Jais. The Chief may adjust the times the Officer will be assigned or may determine that the Officer need not appear at all on a specific night, by taking into consideration such factors as the weather and the volume of business at D'Jais. The Chief shall make the final determination in regard to the assignment of the off-duty Officer.

B. The use of the "Shush" Patrols by the Licensee shall continue under the existing conditions and protocols. In addition, a representative of D'Jais shall meet with the Chief and create a schedule to set minimum and preferred staffing levels for Shush Patrols for weekends, Holidays and on the night before Holidays, covering at least Memorial Day Weekend through Labor Day Weekend subject to adjustment as set forth herein. The schedule shall be reduced to writing and a copy shall be provided to D'Jais, the Police Department, and the Mayor and Council.

The exact times and the number of Shush Patrol members to be deployed on any specific night shall be determined by the Chief in consultation with D'Jais. The Chief may adjust the times and the number of Shush Patrol members to be deployed on any specific night or may determine that no Shush Patrol may be required on a specific night, by taking into consideration such factors as the weather and the volume of business at D'Jais. The Chief shall make the final determination in this regard.

The Police Department shall employ written protocols, to be incorporated into the schedule described above, to ensure that the approved staffing levels of the Shush Patrol are maintained and D'Jais shall cooperate with the Police Department in this regard. Should the Chief determine that approved Shush Patrol staffing levels are not be maintained and in the Chief's determination this amounts to a pattern of non-compliance, the Chief shall send a written Notice to the Borough Council and D'Jais. Upon receiving such Notice the Borough

Council shall schedule a hearing in this regard to determine what actions should be undertaken to correct the matter, including but not limited to the Borough drawing monies from the escrow to be posted as further detailed herein, to pay for private security or like business to staff the Shush Patrols.

18. The Licensee shall post an escrow with the Borough in the amount of \$12,000.00 upon renewal of license. After the initial \$12,000 deposit is made, should the escrow be depleted to an amount of \$5,000.00 or less the Licensee shall be required to replenish the escrow to \$12,000.00, or such lesser amount as may be determined by the Borough's Chief Financial Officer, within ten (10) days of receiving notice to replenish the escrow. If the initial escrow is not posted or if the escrow is not replenished, the Licensee will not be permitted to serve alcoholic beverages until the full escrow is posted. These procedures and time frames for the posting of the escrow shall apply each year.

The use of the escrow shall be limited to the posting of an Officer and back-up Officers as set forth in Condition 17 A and the possible staffing of Shush Patrols or like remedial measures as set forth in Condition 17 B.

The Licensee shall be provided with reasonable documentation by the Borough, on a weekly basis, for all charges to the escrow. Should the Licensee object to any charges against the escrow the Licensee shall file a written objection to the charges with the Borough Administrator within ten (10) days of the receipt of the proposed charges. Any objections which have not been resolved between the Licensee and the Borough Administrator by November 15<sup>th</sup> of each year shall be submitted to a retired Judge of the Superior Court, and/or Appellate Division to be mutually selected by D'Jais and the Borough from the persons identified on the attached list (Exhibit A), or another individual agreeable to the Borough and the Licensee, whose decision shall be final and binding. The cost of the retired Judge or other designated person shall be paid equally by D'Jais and the Borough. At the end of each season, the balance of the escrow shall be returned to D'Jais within ten (10) days after all charges to the escrow and/or objections to escrow charges have been resolved, should there be no unresolved objections than the balance of the escrow shall be returned to D'Jais no later than December 1 of the year.

BE IT FURTHER RESOLVED that the Borough Clerk be and is hereby authorized to deliver the license certificate to the aforementioned applicant.

offered the above resolution and moved its adoption.

Seconded by and adopted by the following vote:

Councilmembers:	AYES	NAYS	ABSTAIN	ABSENT
Ms. Keown-Blackburn				
Mr. Magovern				
Mr. Brennan				
Mrs. Nicolay				
Mayor Doherty				

Adopted: