



BOROUGH OF BERLIN
COUNTY OF CAMDEN

ORDINANCE 2020-008

ORDINANCE OF THE BOROUGH OF BERLIN, COUNTY OF CAMDEN AND STATE OF NEW JERSEY AUTHORIZING INTERIM ZONING, PURSUANT TO N.J.S.A. 40:55D-90(b), TO ALLOW FOR ISSUANCE OF ZONING PERMITS, EFFECTIVE FOR A TIME PERIOD OF 120 DAYS, TO PERMIT TEMPORARY OUTDOOR RESTAURANT SEATING AND RETAIL OUTDOOR DISPLAY SALES AREAS AT EXISTING LAWFUL BUSINESSES, SUBJECT TO BULK ZONING AND CONSTRUCTION CODE REQUIREMENTS AND OTHER OUTSIDE AGENCY APPROVALS

WHEREAS, the Mayor and Council of the Borough of Berlin is authorized to adopt interim zoning, pursuant to N.J.S.A. 40:55D-90, when matters of an imminent public health and safety issue are implicated as confirmed by a qualified health professional; and

WHEREAS, Mayor and Council seeks to establish a balance between the competing and conflicting public interests in promoting the reestablishment of public commerce in the Borough of Berlin, while maintaining safe social distancing to minimize the threat and spread of the Coronavirus pandemic; and

WHEREAS, Mayor and Council has determined that interim zoning to permit temporary outdoor restaurant seating and outdoor retail sales displays will promote these compelling public interest goals in a complementary fashion, provided that the implementation of same will occur on a temporary basis, and does not contravene any other public health and safety concerns as set forth in the Borough's bulk zoning requirements, Construction Code requirements and requirements of any other outside County or State agencies or Executive Orders of the Governor; and

WHEREAS, Mayor and Council desires to implement such measure as expeditiously as possible to minimize red tape and bureaucratic delay, but subject to a lawful process that will protect the interests of the residents of Borough of Berlin and its taxpayers; and

WHEREAS, Mayor and Council acknowledges the existence of the Governor's Executive Orders in respect of the restricted operations of retail businesses and restaurants at this time for take-out business only and, thus, such time period for the implementation of any 120-day temporary Zoning Permit issued hereunder, shall commence upon the repeal, expiration, modification or non-renewal of the Governor's Executive Orders restricting sales to take-out only or otherwise; and

WHEREAS, a public health and safety emergency from the Coronavirus pandemic has been deemed to exist authorizing the adoption of interim zoning ordinance, because it will further promote social distancing

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Berlin, County of Camden, State of New Jersey, as follows:

SECTION 1: Interim zoning is hereby adopted for a period of 120 days from the effective date hereof, to permit the establishment of temporary outdoor seating at lawfully existing restaurants and outdoor retail sales displays at existing lawful retail businesses.

SECTION 2: Upon submission of a written application and plot plan detailing the proposed temporary use activities described in Section 1 above including, but not limited to, a barricade or like separation between any use activity and any parking or drive aisle area described in Section 1 above, the Zoning Officer of the Borough of Berlin is authorized to issue a temporary zoning permit, provided that such issuance is authorized by existing bulk zoning requirements, the Borough's Construction Code official's determination that it meets applicable Code requirements, and further that it complies with the legal requirements of any county or state agency with jurisdiction over the proposed use and retail sales activity and any Executive Order issued by the Governor. Since the proposed use is temporary in nature, no application for site plan approval shall be required.

SECTION 3: Any 120-day zoning permit issued hereunder shall lawfully become null and void upon the repeal, expiration, modification or non-renewal of the Governor's Executive Orders restricting operations of retail businesses and restaurants for take-out business only. This ordinance shall be construed in a manner to fully comport with any future executive orders issued by the Governor.

SECTION 4: Any and all application or permit fees for any temporary use in this Ordinance are hereby waived.

SECTION 5: All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

SECTION 6: The provisions of this Ordinance shall supersede the terms of any previous site plan approval, to the extent there is any conflict therewith.

SECTION 7: This Ordinance shall take effect as set forth above and upon final passage and publication in accordance with law.

BOROUGH OF BERLIN

Rick Miller, Mayor

Introduction:

Moved by: Councilman Badolato; **Seconded by:** Council President Pearce
Vote: Motion carried by roll call vote (summary: Yes = 5 No= 0 Absent=1).
Yes: Councilmembers: Pearce, Badolato, Simone, Hohing, Miller,
No: None
Abstain: None
Absent: Councilwoman Cummings

Having been properly introduced, this Ordinance will have a second reading, public hearing and possible adoption will be on June 11, 2020.

I, Dwayne M. Harris, RMC, Administrator/Clerk of the Borough of Berlin, hereby certifies the foregoing to be the true and correct actions by the Governing Body at its meeting on Thursday, June 02, 2020.

Adoption:

Moved by: Council President Pearce; **Seconded by:** Councilman Badolato

Vote: Motion carried by roll call vote (summary: Yes = 5; Absent = 1).

Yes: Council members Pearce, Badolato, Simone, Cummings, Miller,

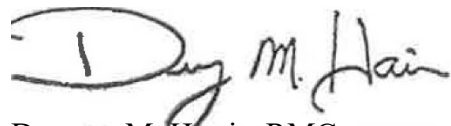
No: None

Abstain: None

Absent: Councilman Hohing,

I, Dwayne M. Harris, RMC, Administrator/Clerk of the Borough of Berlin, hereby certifies the foregoing to be a true action of the Governing Body at its Meeting of Thursday, June 11, 2020.

WITNESS my hand this 12th day of June 2020.

A handwritten signature in black ink that reads "Dwayne M. Harris". The signature is written in a cursive style with a large, stylized initial "D".

Dwayne M. Harris, RMC
Administrator/Clerk