

ORDINANCE OF THE CITY OF GLOUCESTER CITY
County of Camden, State of New Jersey
#O 08 - 2020

**ORDINANCE OF THE CITY OF GLOUCESTER CITY, 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 AREAS AT EXISTING RESTAURANTS INCLUDING THOSE
THAT POSSESS A VALIDLY ISSUED AND ACTIVE RETAIL CONSUMPTION LIQUOR
LICENSE, SUBJECT TO CERTAIN CONDITIONS**

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

WHEREAS, Mayor and Common Council has determined that interim zoning to permit temporary outdoor restaurant seating 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 City'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 Common 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 City of Gloucester City and its taxpayers; and

WHEREAS, Mayor and Common Council acknowledges the existence of the Governor's Executive Orders in respect of the restricted operations of 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 Mayor and Common Council of the City of Gloucester City, 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 including those that possess a validly issued and active retail consumption liquor licenses at existing lawful restaurant businesses. No other clubs, social groups, distribution "D-License" liquor establishments, or the like, shall be entitled to operate under this interim zoning ordinance.

SECTION 2: As used in this section, these terms shall have the following meanings:

a. ***Outdoor Dining Area*** shall mean a designated area on the premises of a retail food establishment or restaurant, but outside the principal building, and where patrons may sit at tables while consuming food and beverages ordered from and served by a waiter or waitress.

b. ***Outdoor Eating Area*** shall mean a designated area on the premises of a retail food establishment, but outside the principal building, and where patrons may sit at tables while consuming foods, soft drinks, ice cream, and similar confections purchased from the retail food establishment.

c. ***Restaurant*** shall mean any establishment, however designated, at which food and drink is sold primarily for consumption on the premises and within a building and in which no other business, except such as is incidental to such establishment, is conducted.

c. ***Sidewalk Cafe Area*** shall mean a designated area of a public sidewalk where patrons may sit at tables while consuming food and beverages ordered from and served by a waiter or waitress.

d. *Special Outdoor Dining Permit Review Committee* shall mean a Committee of the governing body consisting of three (3) council members to be appointed by the Mayor.

SECTION 3: The following regulations for Outdoor Dining Areas, Outdoor Eating Areas and Sidewalk Cafe Area shall mean:

1. Bulk Area Requirements: The bulking area requirements for the zone in which any such restaurant facility is located shall apply. Should the restaurant be a conforming use, the bulk area requires of that zoning district shall apply.
2. No person shall operate an Outdoor Dining Area, an Outdoor Eating Area or a Sidewalk Cafe unless a permit has been obtained from the City of Gloucester City.
3. Applicants shall apply for permit approval in accordance with the provisions of this temporary Ordinance. All such applications shall be approved by the Zoning Officer and shall be referred to the Chief of Police and the Fire Code Official, who shall provide the Zoning Officer with written reports of their opinions and recommendations regarding the application.
4. Applicants shall meet all general ordinance requirements and all other laws, rules, regulations and codes applicable to the proposed activity.
5. Applicants proposing to establish an Outdoor Eating Area, Outdoor Dining Area and Sidewalk Café, decorative temporary fencing designed to enclose the eating area and limit the ability of litter to blow off the premises. The Zoning Officer shall also require such temporary fencing when the Zoning Officer determines that the litter would otherwise be likely to result from the outdoor dining use.
6. An applicant proposing to establish an Outdoor Eating Area, Outdoor Dining Area or Sidewalk Cafe Area shall submit to the Zoning Officer a layout of the proposed seating areas, which shall include but not be limited to a depiction of all aisles, routes of ingress and egress; clearances between tables and between the seating area at the curb; the location of all food preparation and service areas. No picnic-style tables are permitted.

7. The Zoning Officer shall review each application to ensure that the proposed operation of the Outdoor Eating Area, Outdoor Dining Area or Sidewalk Cafe Area will not interfere with pedestrian or vehicular traffic. Six (6') feet of unobstructed sidewalk should be provided with the exact width being determined by the Zoning Officer as he deems it to be appropriate to promote pedestrian or vehicular safety or the visual harmony of the neighborhood, however, in no event shall the unobstructed sidewalk be less than four (4') feet.
8. The hours of operation established for each Outdoor Eating Area, Outdoor Dining Area or Sidewalk Cafe Area shall be no earlier than 12:00 noon and no later than 8:00 p.m., Sunday through Thursday, no earlier than 12:00 noon and no later than 10:00 p.m., Friday and Saturday unless otherwise determined by the Special Outdoor Dining Permit Review Committee, upon recommendation of the Zoning Officer, taking into consideration the nature of the restaurant or retail food establishment at issue, the character of the neighborhood adjacent to the premises, and the character and nature of other uses in the vicinity of the premises at varying times of day.
9. BYOB privileges for wine or malt alcoholic beverages are allowed in Outdoor Eating Areas, Outdoor Dining Areas or Sidewalk Cafe Areas subject to N.J.S.A. 2C:33-7. The service of other alcoholic beverages in Outdoor Eating Areas, Outdoor Dining Areas or Sidewalk Cafe Areas is permitted only if the operator's liquor license specifically allows for such service.
10. The seating contained in an Outdoor Eating Area, Outdoor Dining Area or Sidewalk Cafe Area shall not be counted in determining any parking space requirement for a retail food establishment or restaurant use.
11. The permit granted pursuant to this section shall allow the use of the Outdoor Dining Areas, Outdoor Eating Areas and Sidewalk Cafe Areas shall be limited to 120-days, the effective length this Ordinance shall remain in effect.
12. All permittees shall properly secure and/or remove all tables, chairs and other items during times of inclement weather and high wind, further at no time shall chairs, tables or other items

be stacked in the area.

13. Applicant shall indemnify and save harmless the City of Gloucester City, its employees, agents or officers from all claims, losses, liens, expenses, suits and attorney fees (liabilities) arising from the placement, operation and maintenance of the applicant's Sidewalk Cafe/Outdoor Dining/Outdoor Eating Areas. Applicant agrees to name the City of Gloucester City as an additional insured under the applicant's general liability insurance (minimum required limit of one million (\$1,000,000.00) dollars, bodily injury, property damage and personal injury, and maintains such insurance for such time as the Sidewalk Cafe/Outdoor Dining/Outdoor Eating Area(s) exists. Owner shall provide the Zoning Officer with evidence of such insurance.
14. Noise/loud music: Given that restaurants are located in residential neighborhoods, no amplification of outdoor music, live or otherwise, is permitted.
15. The primary principal use for Sidewalk Cafe/Outdoor Dining/Outdoor Eating Areas shall be outdoor dining. The consumption of alcohol is a secondary use and the Zoning Officer shall rescind any permit where alcohol is being consumed on a consistent basis without the service of food.
16. All personal protective equipment, for employees and customers, Covid-19 related signage requirements for sanitation and social distancing, demarcation requirements for social distancing, shall be consistent with guidelines established by the Center for Disease Control (“CDC”) and/or the Governor of the State of New Jersey.
17. The City shall permit, upon the submittal of a roadway closure safety plan and upon the recommendation of the Chief of Police, the Zoning Officer, and the approval of the Special Outdoor Dining Permit Review Committee, road closures, for purpose of outdoor dining, no longer than 48 hours in duration, subject of all other requirements set forth herein. All decisions of the Chief of Police as final and not subject to appeal.

SECTION 4: Upon submission of a written application and plot plan detailing the proposed temporary use activities described in Section 2: Item 6 above, and compliance with the relevant provisions of this interim ordinance, the Zoning Officer of the City of Gloucester City, upon the review and approval of the Chief of Police and the Special Outdoor Dining Permit Review Committee is authorized to issue a temporary zoning permit, including the approval of the City's Construction Code official's establishing compliance by the applicant of all applicable Code requirements, and further that it complies with the legal requirements of any county or state agency with jurisdiction over the proposed use of restaurant related outdoor dining. All such regulations set forth herein are expressly subject to any and all Executive Orders issued by the Governor. Since the proposed use is temporary in nature, no application to the Planning Board for site plan approval shall be required.

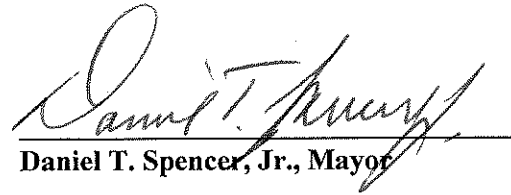
SECTION 5: Any 120-day zoning permit issued hereunder shall lawfully take effect upon the repeal, expiration, modification or non-renewal of the Governor's Executive Orders restricting operations of retail businesses and restaurants for take-out business only. This ordinance shall be construed in a manner to fully comport with any future executive orders issued by the Governor.

SECTION 6: Any and all local application or permit fees for any temporary use in this Ordinance are hereby waived.

SECTION 7: All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

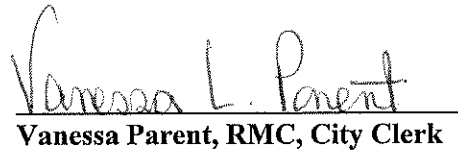
SECTION 8: The provisions of this Ordinance shall supersede the terms of any previous site plan approval, to the extent there is any conflict therewith.

SECTION 9: This Ordinance shall take effect as set forth above and upon final passage and publication in accordance with law.


Daniel T. Spencer, Jr., Mayor

Passed on First Reading: June 1, 2020

Adopted by the Mayor and Common Council of Gloucester City this 18th day of June, 2020.


Vanessa Parent, RMC, City Clerk