

**TOWNSHIP OF CHESTERFIELD**

**ORDINANCE NO. 2020-8**

**AN ORDINANCE ESTABLISHING A TEMPORARY PROCESS FOR PERMITTING  
OUTDOOR DINING**

**WHEREAS**, on March 9, 2020, the Governor issued Executive Order 103, declaring a State of Emergency and Public Health Emergency throughout the State of New Jersey as a result of the COVID-19 coronavirus pandemic; and

**WHEREAS**, on March 16, 2020, the Governor issued Executive Order 104, limiting the scope of service and hours of operation for restaurants and certain retail establishments to balance the need to allow individuals to access food and other essential materials with the need to limit unnecessary person-to-person contact; and

**WHEREAS**, on March 21, 2020, the Governor issued Executive Order 107, further limiting the scope of service for restaurants to offering only food delivery and/or take-out services in accordance with their existing liquor licenses; and

**WHEREAS**, Executive Order 107 recognized that the Centers for Disease Control and Prevention (“CDC”) has advised that social mitigation strategies for combating COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, and ordered further steps to mitigate community spread of COVID-19; and

**WHEREAS**, on March 21, 2020, the Governor issued Executive Order 108, invalidating any municipal restriction that in any way will or might conflict with any of the provisions of Executive Order 107; and

**WHEREAS**, on June 3, 2020, the Governor issued Executive Order 150, permitting outdoor dining services at restaurants with or without a liquor license, beginning on June 15, 2020, with continued adherence to state and federal safeguarding guidelines; and

**WHEREAS**, the Department of Health issued Executive Directive 20-014 establishing protocols restaurants offering outdoor dining services pursuant to Executive Order 150 must adhere to, including but not limited to, limiting seating to a maximum of eight (8) customers per table and arrange seating to maintain six feet (6) between parties, prohibiting patrons from entering the indoor premises of restaurant, except to walk through such premises when entering or exiting the food or beverage establishment in order to access the outdoor area, or to use the restroom, and requiring patrons to wear a face covering while inside or away from their table unless the patron has a medical reason for not doing so; and

**WHEREAS**, Executive Order 150 permits municipalities to use their existing authority to allow restaurants to expand their footprint to outdoor areas, including but not limited to sidewalks, streets, or parks; and

**WHEREAS**, the Division of Alcoholic Beverage Control has created a temporary permit, known as the COVID-19 Expansion of Premises Permit, to all licensees and permittees with on-premises retail consumption privileges to expand their licensed premises into outdoor areas, either contiguous or non-contiguous to their permanently licensed premises until November 30, 2020; and

**WHEREAS**, the Township Committee would like to establish a process for licensing outdoor dining during the State of Emergency and Public Health Emergency that is expeditious and efficient, while continuing to protect the public health, safety and welfare of the community; and

**WHEREAS**, outdoor dining is not currently regulated through Chesterfield Township Land Development Code Chapter 130 or any other provision of the Township Code; and

**WHEREAS**, the Code of the Township of Chesterfield, Chapter 66 Section 28, prohibits the consumption of alcohol on any public street, lane, sidewalk, public parking lot or other outdoor public place or area; and

**WHEREAS**, the Municipal Land Use Law prohibits interim zoning ordinances except “in cases where the municipality demonstrates on the basis of a written opinion of a qualified health professional that a clear imminent danger to the health of the inhabitants of the municipality exists, and in no case shall the...interim ordinance exceed a six-month term” (NJSA 40:55D-90b); and

**WHEREAS**, the Governor’s State of Emergency and Public Health Emergency recognize that the spread of COVID-19 presents a clear imminent threat to the health of all residents of the State of New Jersey.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Chesterfield, County of Burlington, State of New Jersey, as follows:

**ARTICLE I. TEMPORARY MODIFICATIONS TO THE TOWNSHIP CODE**

Pursuant to N.J.S.A. 40:55D-90 and Executive Order 150, the Township Code of the Township of Chesterfield is temporarily modified as follows to allow for a temporary permitting of outdoor dining and a temporary relaxation of the Code prohibition of the public consumption of alcohol. Such modifications shall remain in effect from the effective date of this Ordinance until the earlier of December 31, 2020 or until administratively terminated by the Township Committee by Resolution. The temporary modifications discussed above are as follows:

1. §130-10, entitled “Exceptions from zoning regulations” is temporarily modified by the addition of subsection (D) which shall read as follows:
  - D. Temporary Outdoor Restaurant Seating. Restaurant owners and managers may allow for outdoor restaurant seating upon the granting of a Temporary Outdoor

Restaurant Seating Permit. Permit applicants shall submit applications for temporary outdoor restaurant seating permits to the Township Zoning Officer. The Township Zoning Officer shall distribute the application to the Township Chief of Police and the Municipal Health Officer for their review, and shall approve, approve with conditions, or disapprove the application within 15 calendar days of its submission. All applications shall comply with all provisions of Chapter 104 and shall meet the following requirements:

1. Permit applications shall include a floor plan or other drawing demonstrating the proposed layout or expansion of outdoor seating areas, the relocation of any tables and seats, and any proposed changes to parking areas. The proposed temporary layout may not result in an expansion in the number of available tables or seats.
  2. Permit applications must include insurance certificates as required by §130-136 of the Township Code.
  3. If the applicant holds an alcohol retail consumption license, the application must include a valid Place to Place transfer License. This application for a Place to Place license transfer, which is necessary in order to allow the existing licensed premises to be expanded to include the proposed outdoor seating area, shall be processed in accordance with state and municipal requirements governing such applications. The Township may waive this requirement if permitted by State executive orders, legislation, or regulation.
2. §66-28, entitled “Consumption and discarding of containers,” and prohibiting the public consumption of alcohol is hereby amended to add the following language as paragraph “C” to read as follows:
- C. The public consumption of alcohol may be allowed on the property of businesses possessing alcohol retail consumption licenses if said license holders have been granted a temporary outdoor seating permit pursuant to §130-10 of the Township Code and if such consumption would not violate the terms of the retail consumption license.

## **ARTICLE II. REPEALER, SEVERABILITY AND EFFECTIVE DATE.**

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the

Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

**CHESTERFIELD TOWNSHIP COMMITTEE**

Introduced: June 11, 2020

Adopted:

RECORD OF VOTE													
INTRODUCTION							ADOPTION						
TWP COMMITTEE	AYE	NAY	NV	AB	ORD	SEC	TWP COMMITTEE	AYE	NAY	NV	AB	ORD	SEC
S Dhopte	X					X	S Dhopte						
D Koetas-Dale	X						D Koetas-Dale						
J Liedtka	X						J Liedtka						
L Panfili	X				X		L Panfili						
M Russo	X						M Russo						
X – Indicates Vote      NV – Not Voting      AB – Absent      ORD – Motion      SEC - Seconded													

4840-1199-3782, v. 1