

Ordinance

No. 7-2020

ORDINANCE 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 Governing Body of the Borough of Westville (“Governing Body”) 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, the Governing Body seeks to establish a balance between the competing and conflicting public interests in promoting the reestablishment of public commerce in the Borough of Westville, while maintaining safe social distancing to minimize the threat and spread of the Coronavirus pandemic; and

WHEREAS, the Governing Body 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; and

WHEREAS, the Governing Body 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 the Borough of Westville and its taxpayers; and

WHEREAS, the Governing Body 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 and non-renewal of the Governor’s Executive Order restricting sales to take-out only; and

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

NOW THEREFORE, BE IT ORDAINED by the Governing Body Borough of the Westville, County of Gloucester and State of New Jersey that:

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.

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Section 2. Upon submission of a written application and plot plan detailing the proposed temporary use activity described in Section 1 above, the Zoning Officer of the Borough of Westville 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. 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 take effect upon the repeal, expiration and non-renewal of the Governor's Executive Order restricting operations of retail businesses and restaurants for take-out business only. Such ordinance shall be construed in a manner to fully comport with any future executive orders issued by the Governor.

Section 4. All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

Section 5. The provisions of this Ordinance shall supersede the terms of any previously site plan approval, to the extent there is any conflict therewith.

Section 6. This Ordinance shall take effect as set forth above and upon final passage and publication in accordance with law.

Introduced: June 1, 2020

Adopted:

BOROUGH OF WESTVILLE

**Fritz H. Sims, Jr.
MAYOR**

ATTEST:

**Kathleen Carroll
DEPUTY MUNICIPAL CLERK**