



# TOWNSHIP OF ABINGTON

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## AGENDA

### SPECIAL MEETING

#### LAND USE COMMITTEE

#### RESOLUTION # 2020-030 OUTDOOR

#### DINING

Monday, June 8, 2020, 6:00 PM

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1. CALL TO ORDER: COMMISSIONER MIKE THOMPSON, CHAIR
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. CONSIDER AND DISCUSS RESOLUTION # 2020-030 ESTABLISHING GUIDELINES AND POLICY FOR OUTDOOR SALES OF FOOD AND MERCHANDISE OF EXISTING BUSINESSES IN THE TOWNSHIP DURING THE CORONAVIRUS PANDEMIC
5. ADJOURNMENT

**ABINGTON TOWNSHIP  
RESOLUTION NO. 2020-030**

**A RESOLUTION OF ABINGTON TOWNSHIP, MONTGOMERY COUNTY,  
ESTABLISHING GUIDELINES AND POLICY FOR OUTDOOR SALES OF FOOD  
AND MERCHANDISE OF EXISTING BUSINESSES IN THE TOWNSHIP DURING  
THE CORONAVIRUS PANDEMIC**

**WHEREAS**, Governor Wolf issued a Proclamation of Disaster Emergency on March 6, 2020, authorizing political subdivisions to act as necessary within the powers conferred by the Proclamation of Disaster Emergency to meet the exigencies of the emergency; and

**WHEREAS**, on May 1, 2020, the Governor's Office presented a plan entitled Process to Reopen Pennsylvania which will ease social gathering restrictions in phases based upon public health indicators while requiring ongoing compliance with Centers for Disease Control and Pennsylvania Department of Health guidance for social distancing and workplace safety; and

**WHEREAS**, federal and state health and regulatory agencies have called for the implementation of safety measures, such as increased workplace ventilation, increased physical distance between employees and customers, and alteration of hours based on building size and number of employees; and

**WHEREAS**, the safety measures are advanced and made more effective by the temporary allowance of outdoor dining and commercial activity provided such dining and commercial activity occur consistent with all other state and federal statutes, regulations, and orders; and

**WHEREAS**, pursuant to the Process of Reopen Pennsylvania, when Montgomery County enters the Yellow Phase, the Stay at Home Order is lifted, large gatherings of more than 25 people are prohibited, in-person retail is permitted, with curbside and delivery options preferable, indoor Recreation, Health and Wellness Facilities and Personal Care Services remain closed, and restaurants and bars may open outdoor dining; and

**WHEREAS**, pursuant to the Process to Reopen Pennsylvania, when Montgomery County enters the Green Phase, large gathering of more than 250 are prohibited, restaurants and bars may open at 50% occupancy for indoor and outdoor dining, Personal Care Services may open at 50% occupancy and by appointment-only, indoor Recreation, Health and Wellness Facilities may open at 50% occupancy, and all entertainment (such as casinos, theaters and shopping malls) may open at 50% occupancy; and

**WHEREAS**, at all times, regardless of the Phase, all Center for Disease Control and Prevention and Pennsylvania Department of Health guidance and guidelines must be followed by all businesses and residents.

**NOW THEREFORE, BE IT RESOLVED**, that the Board of Commissioners of Abington Township, hereby establishes guidelines and a policy for outdoor sale of merchandise and outdoor dining of existing businesses in the Township for a period of ninety days following the enactment of this Resolution in areas on properties where it might otherwise be prohibited provided the following:

1. The enforcement of the following provisions of the Abington Township Zoning Ordinance at Section 2103.A – “Accessory Uses,” Use A17 – “Outdoor Dining,” will temporarily be suspended:
  - a. Subsection 1, related to removable partitions. This subsection shall be temporarily suspended for temporary outdoor dining uses accessory to existing restaurant uses to the extent that it requires removable partitions that demarcate the boundary of the outdoor dining area, prohibits the use of construction barricades, and allows for a maximum partition for ingress/egress of five (5) feet. During the effective period of this resolution, temporary outdoor dining shall require the use of partitions, which may be removable and which may be in the form of construction barriers, and at least six (6) feet shall be provided for ingress/egress.
  - b. Subsection 2, related to pedestrian circulation. This subsection shall be temporarily suspended for temporary outdoor dining uses accessory to existing restaurant uses to the extent that it does not provide a minimum of six (6) feet for pedestrian access. All temporary outdoor dining uses must provide a pedestrian circulation plan that provides at least one ADA accessible route and must provide at least six (6) feet for pedestrian access.
  - c. Subsection 3, related to screening requirements. This subsection shall be temporarily suspended in its entirety for temporary outdoor dining uses accessory to existing restaurant uses.
  - d. Subsection 10, related to parking. This subsection shall be temporarily suspended for temporary outdoor dining uses to the extent that it prohibits the use of parking spaces for outdoor dining uses and prohibits the decrease in the normally required parking spots for an existing restaurant use. All temporary outdoor dining uses may utilize existing parking spaces to accommodate outdoor dining if:
    - i. The use of the parking spaces provides for safe access for customers, employees, emergency responders, and any other individual; and
    - ii. The remaining parking spaces are adequate to accommodate the restaurant use as well as the temporary outdoor dining use; and
    - iii. The applicant demonstrates compliance with the remaining terms of this Resolution; and
    - iv. The applicant is reviewed and approved by the Township Engineer, the Township Fire Marshal, and the Township Police Department.
  - e. Subsection 11, related to the location of outdoor dining uses. This subsection shall be temporarily suspended in its entirety for temporary outdoor dining uses.
2. Retail Sales of Goods and Merchandise:
  - A. During both the Yellow and Green Phase:
    - i. The merchant seeking to use outdoor space to conduct commercial activity shall be responsible for compliance with all state and federal

statutes, regulations, and orders, or as may be amended, as well permission from the landlord or owner of the property. The terms of this resolution and the guidelines to conduct outdoor commercial activity expressly do not excuse merchants from complying with federal and state orders, including but not limited to those relating to COVID-19 mitigation nor pre-existing statutes and regulations such as Pennsylvania Department of Health requirements. The terms of this resolution and the guidelines to conduct outdoor commercial activity and expressly do not excuse compliance with any conditions imposed by the Montgomery County Board of Health. It is the merchant's sole responsibility to ensure compliance with same and, if needed, secure any permission necessary from any agency having jurisdiction over the operations.

ii. Prior to conducting any outdoor commercial activity, the merchant seeking same shall submit an application, including a plan, to the Township which shows:

1. The proposed location of the outdoor activity along with a parking plan which provides sufficient parking to meet the needs of its customers. If a merchant uses spaces in a parking lot, the merchant shall provide safe separation between its customers and vehicles with the use of physical barriers approved by the Zoning Officer, Police Department and Fire Marshal and shall not occupy any handicapped parking area.
2. The proposed use of sidewalk space, if any, which shall allow sufficient space for pedestrians and handicapped individuals to traverse the sidewalk.

### 3. Restaurants and Other Food Service Establishments:

#### A. During the Yellow Phase:

- i. The merchant seeking to use outdoor space to conduct dining shall be responsible for compliance with all state and federal statutes, regulations, and orders, or as may be amended, as well permission from the landlord or owner of the property. The terms of this resolution and the guidelines to conduct outdoor dining expressly do not excuse merchants from complying with federal and state orders, including but not limited to those relating to COVID-19 mitigation nor pre-existing statutes and regulations such as Pennsylvania Department of Health requirements relating to outdoor dining. The terms of this resolution and the guidelines to conduct outdoor dining expressly do not excuse compliance with any conditions imposed by the Pennsylvania Liquor Control Board or the Montgomery County Board of Health or expand, modify or otherwise alter any license issued to the establishment by the Pennsylvania Liquor Control Board or the Montgomery County Board of Health. It is the merchant or business

owner's sole responsibility to ensure compliance with same and, if needed, secure any permission necessary from any agency having jurisdiction over the operations, including but not limited to the Pennsylvania Liquor Control Board and the Montgomery County Board of Health related to outdoor service or consumption of food, beverages or any other product.

- ii. Prior to conducting any outdoor dining, the merchant seeking same shall submit an application, including a plan, to the Township which shows:
  1. The proposed location of the outdoor activity along with a parking plan which provides sufficient parking to meet the needs of its customers. If a merchant uses spaces in a parking lot, the merchant shall provide safe separation between its customers and vehicles with the use of physical barriers approved by the Zoning Officer, Police Department and Fire Marshal and shall not occupy any handicapped parking area.
  2. The proposed use of sidewalk space, if any, which shall allow sufficient space for pedestrians and handicapped individuals to traverse the sidewalk.

B. During the Green Phase:

- i. Any merchant who submitted an application and plan to conduct outdoor dining during the Yellow Phase, pursuant to Section 3(A)(ii)(1) above, must submit a revised parking plan if it intends to continue outdoor dining in addition to indoor dining.
4. The merchant seeking to use outdoor space to conduct commercial activity or dining shall abide by nuisance and noise regulations found in the Abington Township Code.
  5. The merchant seeking to use outdoor space to conduct commercial activity or dining shall comply with all guidance issued by the Pennsylvania Governor's Office, the Pennsylvania Department of Health and the Montgomery County Board of Health with regard to safety and sanitary protocols and social distancing recommendations, as may be amended from time to time.
  6. By submitting a plan, the merchant acknowledges that it does not acquire any vested rights or privileges under the plan and waives any right to continue the permissions granted by the plan beyond the expiration of this Resolution.
  7. This Resolution and its authorization to conduct commercial activity and dining in outdoor spaces shall expire ninety days after its effective date.

**RESOLVED** and **ENACTED** this \_\_\_\_ day of June, 2020.

TOWNSHIP OF ABINGTON  
BOARD OF COMMISSIONERS

Attest:

\_\_\_\_\_  
Richard J. Manfredi,  
*Township Manager & Secretary*

By: \_\_\_\_\_  
John L. Spiegelman, *President*