

TOWNSHIP OF FERGUSON

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FERGUSON TOWNSHIP PLANNING COMMISSION REGULAR MEETING AGENDA Monday, June 22, 2020 6:00 PM

Zoom Meeting: <https://us02web.zoom.us/j/83796087001>

Meeting ID: 837 9608 7001

One tap mobile: +16465588656,,83796087001# US (New York) 13017158592, 83796087001# US

- I. Call To Order
- I. Approval of Regular Meeting Minutes—May 11, 2020
- II. Citizen Input
- III. Land Development Plans

A. Modification/Waiver Application—Thistlewood Lot 19 LDP

Staff has received a Modification/Waiver request from Penn Terra Engineering, on behalf of Eric Reischer, property owner of Thistlewood Lot 19, for relief from §22-510.B.2a Erosion and Grading Control, §22-510.B.2b Erosion and Grading Control and §22-510.B.3 Erosion and Grading Control. Lot 19 is an existing lot with most of the lot having slopes greater than 25%. This slope is defined as a steep slope by the Ferguson Township Ordinance. §22-510.B.2 Erosion and Grading Control states that No excavation shall be made resulting in a slope steeper than 3:1. Except: a. The excavation is located so that a line having a slope of 3:1 and passing through any portion of the proposed slope will intersect the existing ground inside the property lines of the property on which the exaction is proposed to be made; and b, The slope is located so that the settlement, sliding, or erosion will not result in material being deposited on adjoining property by any means. §22-510.B.3 Erosion and Grading Control states that In all cases, the edge of excavation or fill shall be a minimum of 5 feet from property lines of developed lots.

The steep slope makes grading on the lot a challenge. There is a conservation area located in the northeastern corner of the lot where grading is prohibited. Please see the attached memo for more details regarding each section of the ordinance from which relief is being requested and exhibit detailing the lot.

Staff Recommendation: *Staff recommends the Planning Commission make a recommendation to the Board of Supervisors that they approve the request for the Modification/Waiver request for Erosion Control.*

IV. Community Planning

A. COVID-19 and Zoning

In order to meet new COVID-19 safety protocols for reopening, many businesses and schools are going to have to turn themselves inside-out. If local businesses are to reopen in a way that provides for more safe distancing between patrons, most zoning laws will need quick reform. Provided with the agenda is an article that summarizes a few issues and trends facing communities. In an effort to assist local businesses in responsibly reopening and resuming operations as they recover from the effects of COVID-19, Staff would like to discuss other restrictions within our Ordinance that may need to be temporarily eased to enable businesses to safely and effectively operate on their property in conjunction with implementing the Governor's Office, PA Department of Health, and other agency and industry guidelines regarding social distancing, sanitation, and public health.

Short term topics that should be considered:

- Temporary Signage;
- Curbside pick-up on public and private parking spaces, drive-throughs, walk-up windows;
- Outdoor seating and display areas; and
- Small cell antennas.

Long term topics that should be considered:

- Distribution Facilities;
- Virtual 'Ghost' Restaurants; and
- Potential reduction in "brick-and-mortar" retail and office space and repurposing of those buildings.

Staff Recommendation: *That the Planning Commission review the provided article and discuss potential relief mechanisms the Township should consider for a temporary solution.*

V. Official Reports and Correspondences

- A. Board of Supervisors
- B. CRPC Report
- C. Land Development Plans
- D. Staff Updates

VI. Adjournment

**FERGUSON TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
MONDAY, MAY 11, 2020
6:00 PM**

ATTENDANCE

The Planning Commission held its Regular meeting of the month on Monday, May 11, 2020, via Zoom. In attendance:

Commission:

Jeremie Thompson – Chair
Jerry Binney – Vice Chair
Rob Crassweller – Secretary
Shannon Holliday
Bill Keough
Ellen Taricani
Ralph Wheland
Lisa Rittenhouse--Alternate
Qian Zhang – Alternate

Staff:

Jenna Wargo, Planning & Zoning Director
Jeff Ressler, Zoning Administrator
Kristina Aneckstein, Community Planner

Others in attendance: Rhonda Demchak, Recording Secretary; Mark Torretti, Project Manager, PennTerra Engineering; Laura Dininni, Ferguson Township Resident

Ms. Wargo took roll call and the Planning Commission had a quorum.

I. CALL TO ORDER

Mr. Thompson called the Ferguson Township Planning Commission's regular meeting to order on Monday, May 11, 2020 at 6:05 p.m.

II. APPROVAL OF REGULAR MEETING MINUTES APRIL 13, 2020

Mr. Thompson called for a motion to approve the minutes from April 13, 2020. Mr. Crassweller made a motion to approve the minutes. Mr. Binney seconded the motion, and the motion passed unanimously.

III. CITIZEN INPUT - NONE

IV. LAND DEVELOPMENT PLANS

A. Conditional Use Application – Orchard View Subdivision

Mr. Ressler presented the Conditional Use Application for the Orchard View Subdivision request from Penn Terra Engineering. There are 7 lots, 36 single family residential and one lot dedicated as a stormwater basin. The zoning ordinance allows that all lots created must have appropriate street frontage of a minimum width at street line as determined by the zoning district. Orchard View Subdivision is Zoned R-1. The minimum required lot width at street line is 50'. The applicants are proposing that lot #37, the stormwater basin lot, have less than the required 50' of frontage along the street line. The proposed lot width for lot #37 at street line is 20'. The zoning ordinance, also in Chapter 27-732 Flag Lots, allows the Board of Supervisors to grant a Conditional Use approval for a lot to be less than the required minimum lot width at street line, commonly called a flag lot. The zoning ordinance lists 4 goals that the Board of Supervisors should take into consideration when considering a conditional use application. The goals are as follows:

1. Creation of the flag lot will eliminate access to an arterial or collector street.
2. Creation of the flag lot will make better use of an irregularly shaped property.
3. Creation of the flag lot is consistent with a design and layout creating the minimum number of flag lots in the subdivision, taking into account 27-732.A.6(a) and (b).
4. Creation of the flag lot will reduce the loss of tillable acreage associated with a farm parcel that has no subdivision potential.

In granting a conditional use, the Board of Supervisors shall attach such conditions as necessary to meet the intent of this section. Mr. Ressler noted that there would not be a driveway or a gravel road, and it will only be accessed for maintenance of the basin. Mr. Keough noted that he liked that the lot will be an independent lot; however, he proposed having the plot plan identify who would be maintaining/managing the lot. Mr. Torretti, Penn Terra, reported that the owner submitted the Homeowners Association (HOA) documents that indicates who will be maintaining the basin and the access area. Mr. Torretti noted that they have been coordinating with the Township Engineer to install a section of fencing on each side of the right-of-way going down to the basin and at the access road to identify that it is not part of someone's lot. Mr. Crassweller asked about the maintenance of the sidewalks and will this count towards the 75% proposed when a land development plan is submitted for Lot 2? Ms. Wargo noted that they will investigate the ordinance and that the storm water basin might not fall under that ordinance. Ms. Dininni noted that 75% was changed to 50% per the Board of Supervisors. Mr. Keough asked who would be responsible for the 20' of sidewalk? Mr. Torretti noted that this will be identified in the HOA documents and there will be an annual maintenance fee. Ms. Rittenhouse asked who would be responsible for putting in the sidewalks.? Mr. Torretti stated that they will be installed by the developer or the homebuilder and that it is included on the plans. Mr. Torretti also noted that the developer will be installing the sidewalks at the Flag Lot and the basins will be built first before any houses are built. A Ferguson Township audience member by the name of Lisa asked who would be responsible for maintaining the road? Ms. Aneckstein stated that Apple View Drive will be a public roadway and maintained by the Township. Mr. Crassweller made a motion to recommend the Board of Supervisors approve the request for the Conditional Use request for a flag lot. Ms. Holiday seconded the motion, and the motion passed unanimously.

V. COMMUNITY PLANNING

A. Review of Chapter 19, Signs and Billboards Draft Ordinance Amendments

Ms. Wargo reviewed the Chapter 19 Signs and Billboards Draft Ordinance Amendments. Ms. Wargo and Mr. Ressler started working on the amendments in February out of response to the U.S. Supreme Court *Reed v. Town of Gilbert*. The main goal of the Township amendments is to tighten down the content neutrality that came out of the *Reed v. Town of Gilbert* case. Ms. Wargo noted that they wanted to make the purpose and finding sections stronger and directly tied that to the sign regulations. The need for signage to advertise local events, business activities, elections, but attempt to balance those needs with regulating temporary signs. The goal is to prevent excessive use and to preserve the community character. The substantial amount of this update is for the temporary sign portion of the ordinance. Ms. Wargo and Mr. Ressler updated a few of the definitions with the purpose and findings that were completely redone. They moved the real estate signs into the exempt signs as long as they were within a certain size. There was a

lengthy discussion about the draft language in the ordinance. Mr. Binney noted that in the illumination section the 10-second limitation was deleted. Ms. Wargo noted it was an oversight and it would be added back into the ordinance. Mr. Keough noted that he would like to see a separate section of the ordinance that was designed to address event signage. He noted that the Township should be encouraging the community and neighborhood of these types of activities and events that are occurring. Mr. Keough noted that he would like the staff to research what other townships have in place with regards to the topic of event signage within their ordinances. The Township allows for free-standing portable residential signs. Three signs are allowed on a property, with no time limit, and they are free to say anything. Mr. Keough noted that trying to figure out the difference between the off-site and on-site signage is confusing. Mr. Keough noted that there is a reference to a “shopping center”, but no definition. Does it consist of three neighboring next to each other or does it consist of something greater than if you have two stores together? Mr. Ressler stated that they will revisit the language. Continued discussion regarding temporary signs ensued. Ms. Wargo explained the Reed vs. Town of Gilbert. The court case was about a municipality in Arizona and how they were trying to regulate based off the content of the property owners sign. Therefore, the Township is trying to regulate by size, number of signs, time period. Ms. Wargo noted that there are a few hot button topics such as the farmers market, Ag Progress Days (APD), and the banner going across the road to advertise APD to consider. Mr. Keough encouraged Ms. Wargo and Mr. Ressler to check with Mr. Vern Squire at CBICC regarding the agritourism effort that is being generated throughout the county with the Visitor’s Bureau, because he questioned if the signs were in ordinance with Ferguson Township. Ms. Wargo stated she would reach out to Mr. Squire. Mr. Keough discussed the banner section of the ordinance and if a banner can cross over a road. Mr. Ressler noted that they will investigate this more. Mr. Keough noted that the Home Occupation Sign dimensions is very restrictive. He noted that it used to be 10 square feet but now it has been reduced to 5 square feet. Ms. Wargo noted that they are going through the ordinance to make them all more consistent because in some areas they are referred to gross aggregate and other areas they are referred to as square feet. Ms. Wargo suggested that perhaps having different sizes based off zoning districts could apply. Ms. Wargo and Mr. Ressler will revisit this ordinance. A discussion ensued with regards to home occupation signs. Mr. Ressler noted that the ordinance allows for one home occupation sign and that would be for a typical home occupation. Also, it will allow for one no impact home occupation sign. For example, a barber or someone coming to the house to purchase something. Ms. Wargo and Mr. Reseller will look into this too. Ms. Wargo thanked everyone for the good feedback tonight and they will get a final draft to the Commission in the near future. Please email Ms. Wargo any other questions or concerns you have with the draft ordinance by the end of the week.

VI. OFFICIAL REPORTS AND CORRESPONDENCES

A. BOARD OF SUPERVISORS

Ms. Wargo reported that the Board of Supervisors met on May 4, 2020, and she did not have anything on the agenda. Ms. Wargo had attended the Tree Commission meeting because she is assisting Scott Pflumm to draft the Tree Commission’s True Preservation Ordinance. Ms. Wargo noted that on the agenda there was the Orchard View, Harner Farm, Sheetz Land Development plan and that was part of the update she gave. Ms. Wargo noted that the Board of Supervisors changed the Planning Commission’s recommendation for the

sidewalks in the Orchard View Subdivision from 75% to 50%. This will be proposed when a land development plan is submitted for Lot 2 or when 50% of Orchard View Subdivision develops, whichever comes first.

B. CRPC REPORT

Ms. Taricani reported that they had a good two-hour meeting on May 7, 2020, but most of the Township's didn't have a report. The CRPC discussed the University Area Joint Authority and plans that they had. The biggest discussion that the CRPC had was regarding the housing in the area, workforce housing, and low-income housing. Ms. Taricani stated that they discussed the possibility to assist those in the workforce such as things like changing over some of the student housing to low-income housing since there's a lot of new buildings that the students will be moving into. There are two new dorms in East Halls and PSU is going to be renovating Pollack, which is a big area. Ms. Taricani noted that the local landlords are regularly discussing issues with President Barron, PSU. The CRPC will try to do more bicycle events in the area. There will be another CRPC meeting in June. As a reminder, May is bike month.

C. LAND DEVELOPMENT PLANS

Ms. Aneckstein reported that the only new development was that they received the plans back for Thistlewood Lot 19. The plans are currently with the reviewers and then it will go back to Penn Terra.

D. STAFF UPDATES

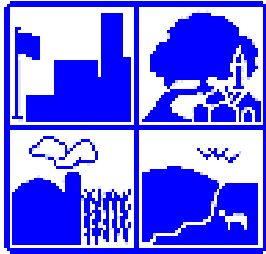
Ms. Wargo reported that the Communications Department sent out a survey. It is a relatively small survey with only six questions. The survey went out with the monthly newsletter to all the residents. The survey is meant to obtain feedback on what the residents would like to hear from the Township. Ms. Wargo noted that Centrice Martin indicated that the Township received 60 responses back so far. Ms. Wargo reminded everyone to please fill out the survey and send back.

VII. ADJOURNMENT

Mr. Binney made a motion to adjourn the May 11, 2020 Planning Commission meeting at 7:45 p.m.

Respectfully Submitted,

Rob Crassweller, Secretary
For the Planning Commission



TOWNSHIP OF FERGUSON

3147 Research Drive, State College, Pennsylvania 16801

Telephone: 814-238-4651 Fax: 814-238-3454

TO: Ferguson Township Planning Commission

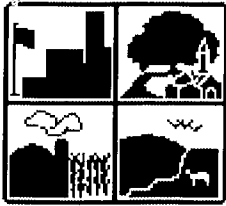
FROM: Kristina Aneckstein, Community Planner

DATE: June 22, 2020

SUBJECT: Request for Consideration of a Modification – Thistlewood Lot 19

On June 5, 2020, Penn Terra Engineering submitted a request for a Modification from Section 22-510.B.2.a, Section 22-510.B.2.b, and Section 22-510.B.3 related to Erosion and Grading Control for the Thistlewood Lot 19 Land Development Plan. Lot 19 has existing slopes of greater than 25%, which is defined by the Township Ordinance and a steep slope. Section 22-510.B.2.a and .b of the Ferguson Township Subdivision and Land Development Ordinance preclude excavation of slopes 3:1. Construction of a single-family home on such a slope presents great challenges. Due to this slope, proximity to another developed Lot and a conservation area, the applicant is seeking relief from Sections mention above with alternatives suggested in attached application.

Staff Recommendation: Staff recommends the Planning Commission make a recommendation to the Board of Supervisors that the modification for Erosion and Grading Controls be approved.



RECEIVED JUN - 8 2020

APPLICATION FOR CONSIDERATION OF A MODIFICATION
Ferguson Township, Centre County

Submittal Date: 6/5/2020

A fee of \$50.00 is required at the time of submitting this application.

The undersigned hereby applies for approval of a modification/waiver, submitted herewith and described below:

Applicant Information

Eric M. Reischer

Name

127 Clemson Court State College 16803

Street Address

City

Zip

814-863-5247

Phone Number

Property/Plan Information

Thistlewood Lot 19

Plan Name

15085 January 28, 2020

Plan Number

Plan Date

Thistlewood Development 24-746-7

Project Location

Parcel Number

Eric M. Reischer

Name of Property Owner(s)

127 Clemson Court State College 16803

Street Address

City

Zip

Application Type:

☐ Subdivision

☐ Terraced Streetscape District (TSD)

☒ Land Development

☐ Traditional Town Development (TSD) District

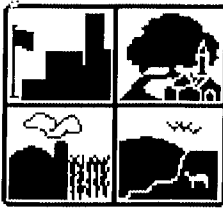
Modification/Waiver Request Information

Specific Section(s) of the Subdivision and Land Development Ordinance or Design Standards for which a Modification/Waiver is requested:

Ch 22-510.B.2.a Erosion and Grading Control

Ch 22-510.B.2.b Erosion and Grading Control

Ch 22-510.B.3 Erosion and Grading Control



APPLICATION FOR CONSIDERATION OF A MODIFICATION
Ferguson Township, Centre County

State any proposed alternative(s) to the requirement:


See Attachment 1

Please state in full, the grounds and facts of the unreasonableness or hardship the Ferguson Township Subdivision and Land Development Ordinance has placed on the property.

See Attachment 1

*If necessary, please continue with your hardship specification on another page.

The undersigned hereby represents that, to the best of their knowledge and belief, all information listed above is true, correct, and complete.


Signature

6/5/2020
Date

-For Office Use Only-

Date Received: _____ By: _____

Date Paid: _____ Check No.: _____ Amount: _____

Advertisement Dates: _____ Planning Commission Review Date: _____

Board of Supervisors Meeting Date: _____

ATTACHMENT 1

Application for Consideration of a Modification Request

for

Thistlewood Lot 19 Land Development Plan - Tax Parcel 24-746-7

State any proposed alternative(s) to the requirement:

The sections that the modification requests are being applied include the following which all are related to grading:

1. Chapter 22-510.B.2 Erosion and Grading Control. This ordinance states that “No excavation shall be made resulting in a slope steeper slope than three horizontals to 1 vertical, except when all of the following are met:

a) The excavation is located so that a line having a slope of 3:1 and passing through any portion of the proposed slope will intersect the existing ground inside the property lines of the property on which the excavation is proposed to be made; and

b) The slope is located so that settlement, sliding, or erosion will not result in material being deposited on adjoining property by any means; and

2. Chapter 22-510.B.3 Erosion and Grading Control. This ordinances states that “In all cases, the edge of excavation or fill shall be a minimum of 5 feet from property lines of developed lots.

Lot 19 is an existing lot with most of the lot having slopes greater than 25%. This slope is defined as a steep slope by the Ferguson Township Ordinance. Since the majority of the site is steep, grading on this lot to construct a home and driveway is very challenging. The submitted land development plan for this lot has been designed to meet all the requirements of the Zoning Ordinance and the Subdivision Ordinance except for the two noted above. Since most of the existing lot is steeper than 4:1, it is impossible to design a flat house site and a driveway with a suitable grade without exceeding and extending slopes in excess of 3:1. The only potential alternative to avoiding slopes greater than 3:1 or grading within five feet of the property lines would be the use of extensive amounts of engineered retaining walls.

Please state in full, the grounds and facts of the unreasonableness or hardship the Ferguson Township Subdivision and Land Development Ordinance has placed on the property.

The existing topography of this existing lot is steeper than 4:1 which is considered steep by Ferguson Township Ordinance. As shown on Exhibit 1 Site Slopes 35% of the site currently exceeds 3:1 slope and most of this area is in the front or lower portion of the site. There is a conservation area located in the northeastern corner of the lot where grading is prohibited. The only location on the lot where the slopes are under 25% with enough area to construct a home is the center of the lot. In order to reach this area the driveway and house grading requires slopes greater than 3:1 in order to avoid impacting the conservation area located on this lot and adjoining Thistlewood HOA property. CMT Laboratories Inc. prepared a Slope Analysis Report for this project. The report included construction specifications that would result in the proposed slopes shown on the Land Development Plan being stable. From an engineering and geotechnical perspective, the slopes proposed on this plan follow sound engineering principals and will not pose a risk to the future property owner or adjacent properties.

The property owners on the east side of the project, Beck Trate and William Knisely, have acknowledged the proposed grading within five feet of the property line and prepared a letter stating their acceptance. The previous owners of this adjoining property in years past had placed fill material over their property line and onto this project which this proposed grading plan proposes to blend or transition into that slope within five feet of the property line.

Given that the existing lot is classified as steep and 35% of the lot already exists at slopes greater than allowed by this section of the Ordinance creates a hardship for the property owner. The ordinance is requiring property owner to create slopes smaller than those that currently exist. In order to attempt to meet the ordinance extensive lengths of retaining wall would be required. These walls would be costly to construct and would be the main visual component of the lot. These walls would be no more stable from an engineering perspective than the engineered slopes that CMT Laboratories Inc. has recommended.

Becky R. Trate
William D. Knisely
190 Treetops Drive
State College, PA 16801
TP: 24-746-006 (Lot #18)

Eric M. Reischer
180 Treetops Drive
State College, PA 16801
TP: 24-746-007 (Lot #19)

RE: Modification request for development of 180 Treetops Drive


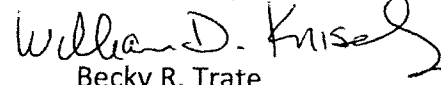
19 February 2020

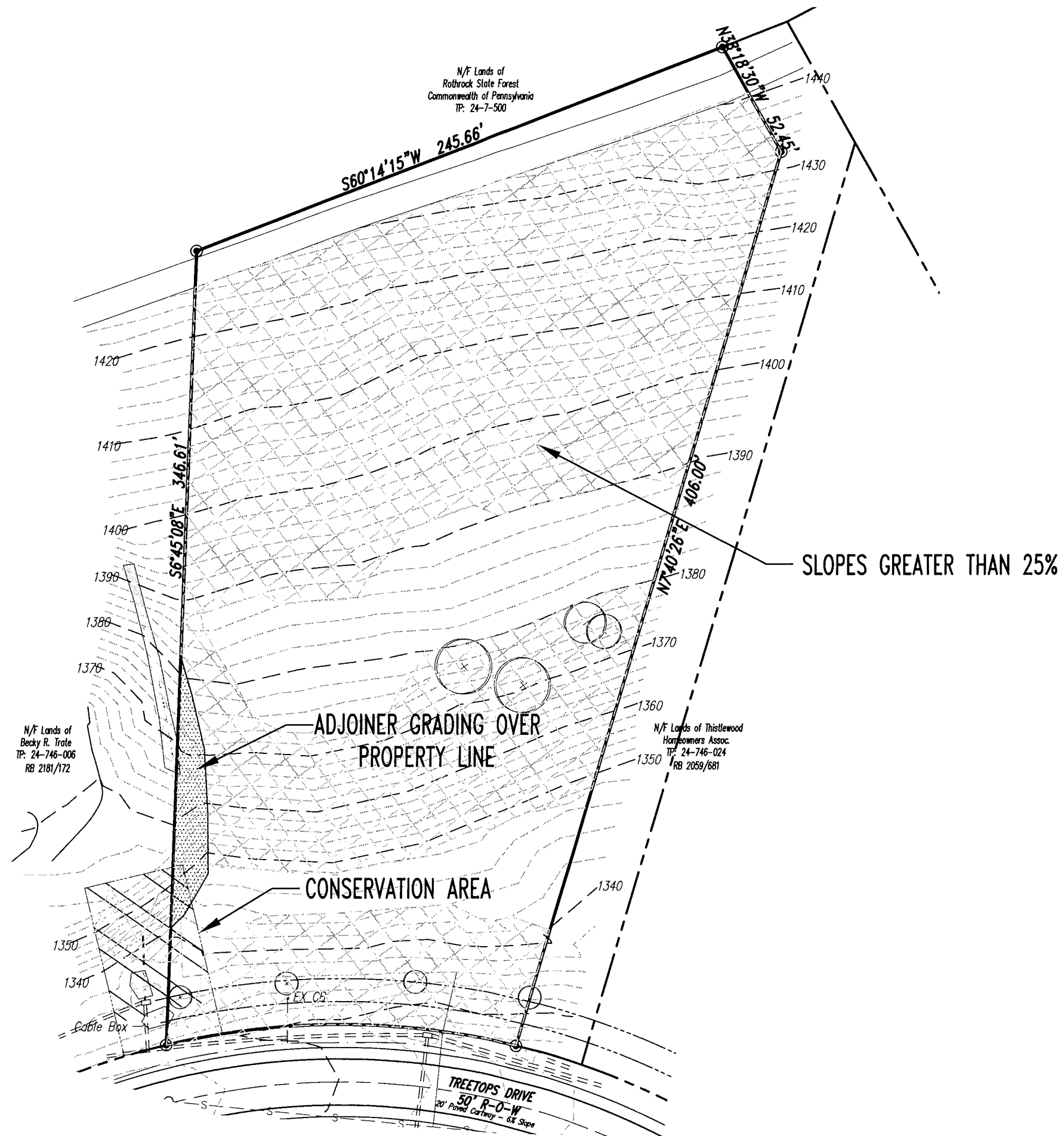
Regarding the development of the lot at 180 Treetops drive, the owner (Eric Reischer) is requesting a modification to township ordinance §22-510.B.3: *"In all cases, the edge of excavation or fill shall be a minimum of 5 feet from property lines of developed lots."* At the time of development of lot #18, the topography in the area between lots #18 and #19 was modified to produce a uniform slope in the area of the property line. As Lot #19 was undeveloped, this disturbance was not in violation of the ordinance.

In order to establish a visual topography that more closely matches the natural environment, the owner of lot #19 is requesting a modification to the above ordinance to allow the slopes and abutting areas of lot #19 to more closely match those in the immediate area of the property line, which may involve disturbing soil inside the 5-foot region-of-exclusion.

As the registered property owners of lot #18 at 190 Treetops drive, we support this application for modification.

Submitted,



Becky R. Trate
William D. Knisely



**CENTRAL PENNSYLVANIA
REGION OFFICE:**
3075 ENTERPRISE DRIVE
SUITE 100
STATE COLLEGE, PA 16801
PH: 814-231-8285
Fax: 814-237-2308
WWW.PENNTERRA.COM

Designer	RRK
Proj. Manager	JCS
Surveyor	XXX
Perimeter Ck.	XXX
Book XXX Pg	XXX
Layout	XXX
File	XXX

**THISTLEWOOD
LOT 19**

FERGUSON TOWNSHIP
CENTRE COUNTY
PENNSYLVANIA

EXISTING CONDITIONS

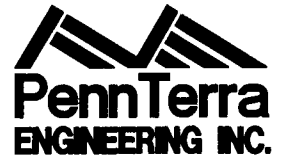
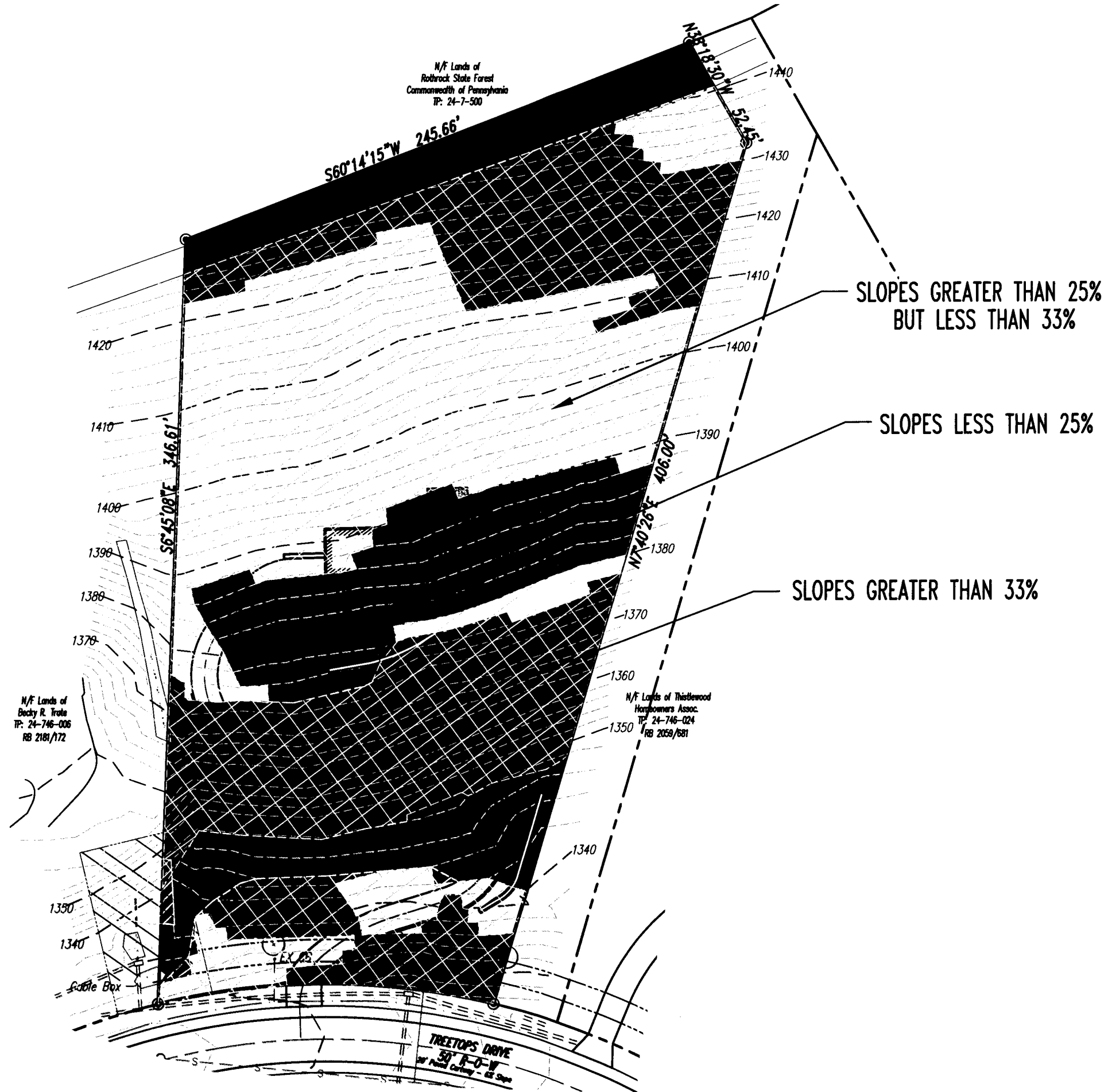
Date
JUNE 5, 2020

Scale
1" = 50'

Project No.
15085

Sheet No. 1 of 1

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**CENTRAL PENNSYLVANIA
REGION OFFICE:**
3075 ENTERPRISE DRIVE
SUITE 100
STATE COLLEGE, PA 16801
PH: 814-231-8285
Fax: 814-237-2308
WWW.PENNTERRA.COM

Designer	RRK
Proj. Manager	JCS
Surveyor	XXX
Perimeter Ck.	XXX
Book	XXX Pg
Layout	XXX
File	XXX

THISTLEWOOD LOT 19

FERGUSON TOWNSHIP
CENTRE COUNTY
PENNSYLVANIA

SITE SLOPES

Date
JUNE 5, 2020

Scale
1" = 50'

Project No.
15085

Sheet No.

1 of 1



McNees McNees Land Use Blog

COVID-19 Is To Blame For A Lot Things, Don't Let Variance Requests Be One Of Them



By Christopher Knarr on May 26, 2020

The immediate and long-term effects of the COVID-19 pandemic are expected to change the way businesses operate and communities plan, zone and regulate land use and development. Below is a summary of a few issues and trends facing communities and businesses. Municipalities should proactively approach this “new normal” and consider modifying zoning and other land use ordinances to the extent necessary to meet the new needs of residents and workers.

- **Small cell antennas** – More people than ever are remotely working or schooling from their homes. As a result, more devices are connected to telecommunications networks and more data is being used. To help boost network coverage and capacity in high-volume usage areas,

telecommunications service providers are installing more small (micro) cell antennas on utility, traffic light and other poles or buildings within or in close proximity to residential neighborhoods.

- **Drive-throughs, curbside pickup lanes, “to-go” parking spaces** and **“walk-up” windows** – Retail and restaurants are adjusting their business practices and services to protect their employees’ and customers’ health. In addition to food and drink delivery services, more businesses are incorporating drive-throughs, curbside pickup lanes, “to-go” parking spaces or “walk-up” windows as **accessory uses customarily incidental and subordinate** to these businesses.
- **Distribution facilities** – E-commerce is booming. The extent to which people order and receive goods and products that traditionally were purchased in person in a “brick-and-mortar” building has been increasing for years. However, the pace at which e-commerce has been growing is even faster now because of the COVID-19 pandemic. Customers want their orders to be delivered to their homes as quick as possible. To meet these increasing demands, businesses are repurposing former big box retail buildings and shopping malls to establish smaller distribution or fulfillment centers that are in close proximity to residential neighborhoods.
- **Virtual restaurants** – Online and mobile app food delivery services have grown quickly in recent months and may not go away even after restaurants can re-open in their traditional form. To meet these demands, restaurants are establishing virtual restaurants, commercial kitchens purely for processing, preparing and fulfilling food orders. There are no in-restaurant ordering or dining facilities: no registers, no servers, no money, no tables or chairs.
- **Home workspaces** – Modern technology has enabled more office employees than ever to remotely work from their homes. As long as they have a computer and internet service, many employees can seamlessly perform nearly all of their work functions from the comfort of their homes.
- Repurposing unused buildings – With more people working from home, and less people making in-person retail purchases or traveling and seeking overnight accommodations, there could be a potential reduction in the demand for space in “brick-and-mortar” office, shopping mall or hotel (motel) buildings. The corresponding increase in the amount of these unused buildings provides additional opportunities to repurpose these buildings for new uses. While several studies indicate the demand for workforce housing continues to increase, there is a potential that some of these unused **office, shopping mall** or **hotel** buildings (or their surrounding parking areas) in certain areas could be repurposed to provide for new uses,

including additional housing options. Several of these buildings are located within or near business centers along major multi-transportation corridors with a full range of public utilities and services.

As communities and businesses look to begin recovering from the effects of COVID-19, we encourage developers, business owners and municipalities to collaboratively examine these and other issues and trends and get creative to ensure ordinances are up-to-date, flexible and sustainable. By specifically permitting these desirable or necessary businesses and uses and removing unnecessary regulatory roadblocks, communities and businesses may be more resilient, impacted less, and quicker to recover from this or future crises.

Please contact any member of the McNees Wallace & Nurick Land Use Group with questions regarding this post or for assistance with any land use issues.

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RESOLUTION 2020-4

ESTABLISHING GUIDELINES AND POLICY FOR OUTDOOR SALES OF FOOD AND MERCHANDISE OF EXISTING BUSINESS 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 April 22, 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.

NOW THEREFORE, BE IT RESOLVED, that the Council of The Borough of Doylestown hereby establishes guidelines and a policy for outdoor sale of merchandise and outdoor dining of existing business in the Borough for a period ending thirty (30) days following the lifting of the Governor's capacity restrictions in areas and on properties where it might otherwise be prohibited provided the following:

1. The merchant seeking to use outdoor space to conduct commercial activity and dining shall be responsible for compliance with all state and federal statutes, regulations, and orders, as well as obtaining permission from the landlord or owner of the property. The terms of this resolution and the guidelines to conduct outdoor commercial activity and 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.
2. The merchant seeking to use outdoor space to conduct commercial activity shall nevertheless provide sufficient parking to meet the needs of its customers.

3. If a merchant uses part of a sidewalk, the merchant shall allow no less than thirty-six (36) inches for pedestrians and handicapped individuals to traverse the sidewalk.
4. 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 and signage approved by the Zoning Officer, Police Department, and Fire Marshal and shall not occupy any handicapped parking area.
5. If a merchant uses a tent or other enclosure for the sale of food or merchandise, the enclosure shall be subject to applicable requirements of the Uniform Construction Code.
6. The merchant seeking to use outdoor space to conduct commercial activity shall abide by all nuisance regulations, including, but not limited to, noise, lighting, and odor.
7. Where deemed appropriate by the Borough Manager, public parking spaces may be approved for use by business owners for the sale of food and merchandise.
8. This Resolution and its authorization to conduct commercial activity in outdoor spaces shall expire thirty (30) days following the lifting of the Governor's capacity restrictions.

RESOLVED THIS 15th DAY OF JUNE, 2020.

ATTEST:

BOROUGH OF DOYLESTOWN

Secretary

President

APPROVED THIS 15th DAY OF JUNE, 2020.

Mayor

AGENDA ITEM

Date Prepared:	June 4, 2020	<u>Deadline to Act:</u>
Meeting Date:	June 9, 2020	None
Prepared By:	Charles W. Emerick, Jr., Director of Community Development Lauren Zumbrun, Economic Development Manger Matt Mandia, Director of Parks and Recreation Garth Warner, Chief of Police	

AGENDA ITEM EXPLANATION/JUSTIFICATION

Item:

Consideration and adoption of Resolution No. 2020-15, *Derry Township COVID-19 Recovery Flexible Business Support Program*.

Reason for being on Agenda:

This item has been placed on the agenda to provide an opportunity for the Board of Supervisors to approve Resolution No. 2020-15.

Explanation, Analysis, and Justification:

Chuck Emerick

At the regular Township Board of Supervisor's meeting on May 26, 2020 the Board authorized Lauren, Matt, Garth, and me to seek stakeholder input, develop a program, and formulate a Resolution for adoption by the Board to implement aid to our restaurants, retail, and other commercial businesses as they reopen responsibly.

As background, 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. Under this plan, Dauphin County entered the "yellow phase" on May 29th and could move to the "green phase" by June 12th if overall risk remains mitigated for fourteen days from May 29th. On June 5th, the State allowed restaurants in the yellow counties to have limited outdoor dining while still restricting indoor dining. Generally speaking, retail businesses are restricted to 50% occupancy in yellow, which is increased to 75% in green. Other businesses like hair salons and barbershops, are only able to open under green with occupancy limitations of no more than 50% of maximum capacity and they must operate by appointment only.

The Governor's Office has developed rules and recommendations for a safe reopening of businesses, and our program will support and supplement these directives.

The Resolution and its guidelines will provide the following relief:

- Temporary signage that is necessary to convey messages related to business operations is allowed without obtaining a permit.
 - Signage must be on-site.
 - Pedestrian passage on sidewalks shall not be obstructed.
 - Vehicular sight distance may not be compromised.
 - Signage must be weighted or secured to avoid movement.
 - Temporary signage shall be removed within 15 days of the close of the program.
- Curbside pick-up on public and private parking spaces may be created.
 - Up to 3 on-street parking spaces directly in front of the business may be used.
 - Up to 3 on-site parking spaces may be used.
 - Certain restrictions related to accessible parking spaces are provided.
 - Altered use of parking arrangements must cease within 15 days of the close of the program.
- Outdoor seating and display areas may be developed under this program.
 - Businesses utilizing this opportunity must also comply with orders and recommendations from the Governor's Office, Centers for Disease Control and Pennsylvania Department of Health.
 - Areas between the building side of the sidewalk and the building may be used.
 - Pedestrian passage on sidewalks shall not be obstructed.
 - Temporary tents, umbrellas, or other similar shade structures or devices less than 20 square feet, when properly secured and anchored may be used.
 - Access to fire hydrants and fire hose connections to buildings must remain unobstructed.
 - Parking requirements for additional seating are temporarily suspended.
 - Existing parking area may be utilized although certain restrictions apply.
 - Requires the business to retain accessible parking areas and spaces.
 - If portions of parking areas are used for seating or display, those areas shall be protected from vehicles.
 - If portions of parking areas are used for seating or display, vehicular access to the remaining portions of the lot must be maintained in a safe manner.
 - Accessible seating shall be provided to the greatest extent possible.
 - Restaurants are encouraged to implement contactless ordering and payment processes.
 - It is strongly suggested that restaurants utilizing private outdoor dining areas institute a reservation policy.
 - All temporary seating and display areas shall be removed within 15 days of the close of the program.

As noted in the resolution, the guidelines will remain flexible throughout the term of the program, which is initially slated to be 60 days from adoption. If we find that any requirements of the guidelines need to be adjusted, we will circulate that intended modification with the Board prior to issuing revised guidelines. If there is need to shorten or lengthen the program, that will require action by the Board.

As the Board is aware, we do not have an open container law in the Township. This will allow the restaurants with a liquor license a clearer path for instituting the recommendations of the PLCB issued May 29, 2020. In accordance with those recommendations, if a licensee chooses to provide seating for on-premises consumption of alcohol, then they must also provide for on-premises consumption of food. They are permitted to serve both food and alcohol within licensed areas. They are also permitted to serve alcohol “to go” from their licensed areas for consumption on their unlicensed service areas.

We have included copies of four guidelines for business reopenings, one generally for businesses, one for restaurants, and two from the PLCB for your reference. In addition, PLCB’s announced on June 3rd that they will allow licensees to apply to temporarily extend their licensed facility immediately adjacent to their existing licensed facility through the processing of an online application without a fee.

Our committee also explored “open street” and use of Chocolatetown Square Park for seating and eating; however, it was determined that at the present time creating a social gathering space was not advisable. If Dauphin County enters the green phase, it is possible that this group, or the Downtown Hershey Association may revisit these concepts.

Lauren completed outreach to some of our business stakeholders, so at this point I would like to turn the floor over to her.

Lauren Zumbrun

In advance of this meeting, notice was provided in the Township e-news that the Board would be considering implementing temporary provisions in an effort to assist local businesses in responsibly reopening and resuming operations as they recover from the effects of the COVID-19 pandemic. This information was also shared at the Hershey Partnership meeting as well as in the Hershey Partnership membership Facebook group and Downtown Hershey Business Facebook group, and directly with area businesses for which we have contact information.

If the board passes the resolution tonight, we will be issuing a press release to local media, posting the guidelines on our website and sharing a link to those guidelines in the above noted channels. In addition, our team will be hosting a zoom webinar for local businesses to share information and answer any questions. We have tentatively scheduled that for Thursday at 2 pm. We have provided notice of the tentative scheduling, but will also be recording the webinar and posting a link to the recording on our website.

Budget Impact:

As we consider the many options, we will be considerate to the present state of the Township’s finances and seek to find the most budget-sensitive solutions.

Board, Commission, or Agency Review:

Not applicable.

Community Development Director and Economic Development Manager Recommendation:

We recommend that the Board of Supervisors adopt and enact Resolution No. 2020-15 including the associated guidelines.

Manager's Comments:

Suggested Motion:

Moved by:

Seconded by:

That Resolution No. 2020-15, enabling the Derry Township COVID-19 Recovery Flexible Business Support Program and guidelines, is hereby adopted.

Yes:

No:

Absent:

RESOLUTION NO. 2020-15

A RESOLUTION of the Township of Derry, Dauphin County, Pennsylvania, to implement flexible temporary plans, procedures, and guidelines to assist local businesses in responsibly reopening and resuming operations as they recover from the effects of the COVID-19 pandemic crisis.

WHEREAS, on March 6, 2020, due to the COVID-19 crisis Governor Wolf proclaimed the existence of a disaster emergency throughout the Commonwealth pursuant to 35 Pa. C.S.A. § 7301(c); and,

WHEREAS, on March 19, 2020, Governor Wolf ordered the closure of all businesses in the Commonwealth that are not life sustaining; and,

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

WHEREAS, as the COVID-19 disaster emergency continues throughout the Commonwealth, Dauphin County, and the Township of Derry, there are evolving Commonwealth restrictions limiting business activities; 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 Township desires to institute strategic measures in support of the Township's business community to operate safely and in a manner designed to prevent a resurgence of the virus while respecting and following the Commonwealth's restrictions; and,

WHEREAS, this strategic plan is intended to be implemented in the most effective, efficient, and risk-averse method possible to balance the return to economic stability while at the same time continuing to keep residents and the visiting public safe by controlling the spread of disease; and,

WHEREAS, The Township, within its Code of Ordinances, has requirements, limitations, and regulations that were developed under the authority given to the Township by the Second Class Township Code and/or the Pennsylvania Municipalities Planning Code for purposes including, but not limited to, protecting and promoting public safety, health, and morals, and providing for the general welfare of the public by guiding and protecting amenities; conveniences; future governmental, economic, practical, social, and cultural facilities; and development and growth, and to guide uses of land and structures; and,

WHEREAS, The Township believes that a temporary suspension of certain requirements, limitations, and regulations during the COVID-19 pandemic does not conflict with the purposes or goals of the Township's Code of Ordinances when also following the Governor's orders and associated guidelines; and,

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

WHEREAS, the Township intends to implement certain strategic measures in compliance with the restrictions issued by the Governor's Office and to continue to assess and modify the measures as necessary to fulfill the goals noted herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the Township of Derry, Dauphin County, Pennsylvania, that the following actions, guidelines, and policy be established and implemented in accordance with the attached *Derry Township COVID-19 Recovery Flexible Business Support Program Guidelines* in support of the Township's business community for a period of 60 days or until such time as the Township repeals this Resolution No. 2020-15, whichever first occurs:

1. The Township will temporarily suspend enforcement of certain Township ordinance regulations regarding temporary signage to the extent that the signage is necessary to convey messages related to the functioning status, special operations, hours, services, curbside pick-up markings and instructions, ordering information, social distancing requirements, use of masks, and/or other messages necessary to ensure clear instructions for owners, operators, employees, and visitors to the business in relation to the business's operations during the COVID-19 pandemic and/or during the effective term of this Resolution.
2. The Township will temporarily allow businesses with public parking along their frontage side of the street to designate up to 3 of those parking spaces for product delivery and/or pick-up, so long as no other special parking restrictions exist, including, but not limited to, handicapped parking, fire lanes, and/or loading zones.
3. The Township will temporarily suspend enforcement of certain Township ordinance regulations related to yard area setbacks and parking requirements to the extent necessary to enable businesses to utilize areas on their private property to display products and/or provide tables and chairs for use by their patrons.
4. The business/merchant seeking to use outdoor space to conduct commercial activity and/or dining shall be responsible for compliance with all state and federal statutes, regulations, and orders, as well as securing permission from the landlord or owner of the property. The terms of this resolution and the

guidelines to conduct outdoor commercial activity and/or dining expressly do not excuse businesses/merchants from complying with state and federal orders, including, but not limited to, those relating to COVID-19 mitigation or pre-existing statutes and regulations, such as Pennsylvania Department of Health requirements relating to outdoor dining.

5. If a business/merchant uses part of a sidewalk, the business/merchant shall allow sufficient space for pedestrians and handicapped individuals to traverse the sidewalk.
6. If a business/merchant uses spaces in a parking lot, the business/merchant shall provide safe separation between its customers and vehicles and shall not occupy any handicapped parking area.
7. The business/merchant seeking to use outdoor space to conduct commercial activity and/or allow outdoor dining shall abide by nuisance regulations found in the Derry Township Code of Ordinances.
8. The Township will explore introducing or expanding public eating areas within lands controlled by the Township.
9. The Township will explore the potential for an Open Streets program that considers and abides by COVID-19 restrictions and any applicable PennDOT regulations.
10. This Resolution and its authorization and temporary suspension of the enforcement of certain Township Ordinances shall expire 60 days after its effective date, or once repealed by the Township Board of Supervisors, whichever first occurs.

BE IT FURTHER RESOLVED that the attached *Derry Township COVID-19 Recovery Flexible Business Support Program Guidelines* shall be implemented as a part of this program. The guidelines can be altered and/or modified to remain in compliance with the Governor's present or future orders or as deemed appropriate by the Township without further legislative action by the Board of Supervisors. This Resolution specifically authorizes the Township to revise and/or amend the attached *Derry Township COVID-19 Recovery Flexible Business Support Program Guidelines* as deemed appropriate and necessary by the Township without the need for a separate Resolution, and the current *Guidelines* shall be maintained for public availability at the Township office and on the Township website.

BE IT FURTHER RESOLVED that this Resolution and the *Derry Township COVID-19 Recovery Flexible Business Support Program Guidelines* shall become effective immediately.

RESOLVED THIS _____ day of _____, 2020.

BOARD OF SUPERVISORS
TOWNSHIP OF DERRY
DAUPHIN COUNTY, PENNSYLVANIA

ATTEST:

By: _____
Secretary

By: _____
Chairman

Derry Township COVID-19 Recovery Flexible Business Support Program Guidelines

Effective June 9, 2020

The Township of Derry is implementing temporary provisions in an effort to assist local businesses in responsibly reopening and resuming operations as they recover from the effects of the COVID-19 pandemic. The Flexible Business Program is intended to provide businesses with certain regulatory relief and eased restrictions to enable them to safely and effectively operate their businesses on their property in conjunction with implementing the Governor's Office, PA Department of Health, and other agency and industry guidelines regarding social distancing, sanitation, and public health.

The program does not allow for, nor is it intended to encourage social gatherings or loitering. Rather, it is being implemented to provide businesses with a certain amount of relief and the tools they need to best serve their customers during this time. Our local businesses are critical to our community and our local economy and the Township of Derry is committed to doing everything we can to assist them in sustaining and growing operations in a responsible manner.

These guidelines have been developed and may be modified as necessary in accordance with Resolution 2020-15 passed by the Derry Township Board of Supervisors.

1. **TEMPORARY SIGNAGE**

Temporary signage that is necessary to convey messages related to the functioning status, special operations, hours, services, curbside pick-up markings and instructions, ordering information, social distancing requirements, use of masks, and/or other messages necessary to ensure clear instructions for owners, operators, employees and visitors to the business in relation to the business' operations during the COVID-19 pandemic and/or during the effective term of Resolution No. 2020-15 shall be permitted in accordance with the following:

- a. Sign permits are not required for temporary signage implemented during the effective dates of the program and the effective term of Resolution No. 2020-15 if such signage complies with the Resolution and the provisions contained herein.
- b. Temporary signage may be placed on a sidewalk, grass area, or landscaped area on the property associated with the establishment being advertised.
- c. Temporary signage placed on a sidewalk must be placed in such a manner to maintain a minimum of four feet of pedestrian passage area for a maximum of five linear feet.

- d. Temporary signage shall not obstruct the vision of motorists at street intersections or where access drives intersect with a street.
- e. The bottom of any temporary signage must be at least 8 feet high when suspended over sidewalks, but at no time shall the top of the temporary signage be greater than 15 feet from the ground surface.
- f. Temporary signage shall be weighted at the base or otherwise designed so that the sign resists being moved by strong winds or creating a hazard to pedestrians or motorist.
- g. Any and all temporary signage installed during the effective term of Resolution No. 2020-15 and/or otherwise installed without a permit in accordance with the intent of the Resolution and these Guidelines shall be removed within fifteen (15) days after Resolution No. 2020-15 is no longer in effect and/or within fifteen (15) days of written notice from the Township, whichever first occurs.

2. **CURBSIDE PICK-UP**

Existing parking spaces may be reserved through the use of temporary signage for product pick-up in accordance with the following requirements:

- a. Businesses with public on street parking directly adjacent to their business frontage may designate up to 3 of those parking spaces for product pick-up if it can be conducted in a safe manner.
- b. Up to three parking spaces within private lots may be designated for curbside pick-up only.
- c. Curbside pick-up parking spaces may be utilized for businesses that accept online orders or phone ahead orders where the order is either delivered to the patron in their vehicle or the patron enters the business to pay and receive their order.
- d. Any existing parking space may be used for curbside pick-up so long as no other special parking restrictions exist at the designated location, including but not limited to, accessible (handicapped) parking, fire lanes, and loading zones.
 - i. EXCEPTION – where more than one accessible parking space exists in the area of, or on the lot in which curbside pick-up areas are designated, at least one accessible space shall also be designated for curbside pick-up, unless the business is only delivering the product directly to the vehicle.
- e. Any and all altered parking arrangements implemented during the effective term of Resolution No. 2020-15 and/or otherwise implemented in accordance with the intent of the Resolution and these Guidelines shall cease within fifteen (15)

days after Resolution No. 2020-15 is no longer in effect and/or within fifteen (15) days of written notice from the Township, whichever first occurs.

3. OUTDOOR SEATING and PRODUCT DISPLAY/SALES AREAS ON PRIVATE PROPERTY

To assist restaurants, retail, and other commercial businesses during a time when they are subject to occupancy restrictions inside the business, an establishment may add outdoor seating or outdoor display areas to their property temporarily during the effective term of Resolution No. 2020-15 in accordance with Resolution 2020-15 and the following:

- a. Businesses may utilize areas between the edge of the public sidewalk furthest from the street and the front of their buildings for product display and/or tables and chairs, subject to compliance with federal and state orders, including but not limited to those relating to COVID-19 mitigation and pre-existing statutes and regulations such as Pennsylvania Department of Health requirements relating to outdoor dining, and further subject to approval from the landlord and/or property owner.
- b. Where the public sidewalk is wider than 5 feet, the remaining portion of the sidewalk may be used for seating or display area. A clear path measuring 5 feet wide must be maintained.
- c. Use of removable barriers to define the sidewalk dining or display area is permissible.
- d. No tables, chairs, umbrellas, displays, or other fixtures shall be permitted within 6 feet of a pedestrian crosswalk or corner curb cut.
- e. If temporary tents, umbrellas, or other similar shade structures or devices are used, they must be less than 20 square feet in area and be appropriately anchored or secured to resist movement or collapse.
- f. All tents must be commercial grade pop-up or free-standing frame tents. All tents must be secured by weights or stakes at each corner of the tent. No stakes may be driven into concrete or asphalt and weights or stakes cannot be more than six inches away from the legs of the tent.
- g. Temporary tents, umbrellas, or other similar shade structures or other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. No portion of an umbrella shall be less than 6 feet, 8 inches above the sidewalk.
- h. Temporary tents, umbrellas, or other similar shade structures or devices must be closed or disassembled at the close of business each day.

- i. Access to fire hydrants, fire hose connections for sprinkler systems, and entrances and exits of all buildings shall not be obstructed at any time by barriers, displays, or seating. There shall be a minimum of 40 inches in distance separating the edge of a table or chair from a fire department connection. If at any time the fire department and/or police department indicate there is a safety concern and/or issue, the same shall be immediately resolved in a manner and form deemed acceptable to the Township.
- j. When temporary new or additional outdoor restaurant seating is provided, the requirement to provide additional parking to accommodate the additional seating is temporarily suspended.
- k. Restaurants may provide temporary new or additional outdoor seating up to a maximum quantity of 50% of the permitted indoor seating for the establishment. The 50% limitation shall exclude any pre-existing outdoor seating. If other orders or guidance is provided by the Commonwealth, the most restrictive order or guidance shall be used to determine the number of seats permitted.
- l. Where restaurants have available on-site outdoor space that is not a part of on-site parking areas, that space shall be first utilized to provide seating. Where restaurants do not have available or sufficient outdoor space to provide seating, up to 40% of an existing parking area greater than 20 spaces designated for that establishment may be utilized for outdoor seating, so long as the spaces can be used for such purpose in a safe manner.
- m. . Required accessible parking spaces cannot be utilized for display or seating areas.
 - i. EXCEPTION - If an establishment has fewer than 20 designated parking spaces on site, the entire parking area may be utilized for seating, so long as the spaces can be used for such purpose in a safe manner.
- n. Outdoor seating areas within parking areas must maintain access for vehicles to utilize the remaining parking spaces.
- o. When dining areas are provided in a private parking area, it shall be the proprietor's responsibility to protect that area from vehicles.
- p. To the greatest extent possible, accommodations for accessible seating shall be provided.
- q. All outdoor seating must be spaced at least six feet apart except to the extent that appropriate partitioning is in place.

- r. Restaurants are encouraged to implement contactless ordering and payment processes through the utilization of online systems and/or disposable paper menus.
 - s. It is strongly suggested that restaurants utilizing private outdoor dining areas institute a reservation policy requiring patrons to make advance reservations. This policy is suggested for the purpose of discouraging people waiting for tables from gathering in groups outside restaurant establishments.
 - t. Any and all of the above-referenced temporary improvements/facilities/etc. installed and/or implemented during the effective term of Resolution No. 2020-15 and/or otherwise implemented in accordance with the intent of the Resolution and/or these Guidelines shall cease and/or be removed within fifteen (15) days after Resolution No. 2020-15 is no longer in effect and/or within fifteen (15) days of written notice from the Township, whichever first occurs.
4. Loitering is to be discouraged in outdoor areas. This program is not intended to create a gathering or social space. **GENERAL INFORMATION AND GUIDANCE**
- a. Persons using these guidelines should also regularly review orders and recommendations as issued or updated by Governor Wolf which can be viewed here <https://www.governor.pa.gov/>.
 - b. The CDC has provided guidance for businesses and workplaces on how they can plan, prepare, and respond in regards to re-opening responsibly which can be viewed at <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>.
5. Resolution No. 2020-15 and its authorization of these Flexible Business Support Program Guidelines shall expire sixty (60) days after the effective date of Resolution No. 2020-15, or once said Resolution is repealed by the Township Board of Supervisors, whichever first occurs.

GUIDANCE FOR BUSINESSES PERMITTED TO OPERATE DURING THE COVID-19 DISASTER EMERGENCY TO ENSURE THE SAFETY AND HEALTH OF EMPLOYEES AND THE PUBLIC

PURPOSE

The virus that causes the Coronavirus 2019 Disease (“COVID-19”) is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to safeguard public health and safety.

COVID-19 can be transmitted from infected individuals even if they are asymptomatic or their symptoms are mild, such as a cough. It can also be spread by touching a surface or object that has the virus on it and then touching your mouth, nose or eyes. This guidance document addresses the procedures businesses must follow to limit the spread of COVID-19 to the extent they are permitted to conduct in-person operations.

As discussed more fully below, businesses operating in counties designed as in the Red Phase, Yellow Phase, or Green Phase are subject to this guidance.

During the Red Phase, businesses must comply with the business closure orders. Businesses that are permitted to maintain in-person operations are those that are permitted to operate under the [Governor’s and Secretary’s Non-Life Sustaining Business Closure Orders \(as amended\)](#), an exemption from those Orders, or any subsequent applicable Order or amendment to those Orders from the Governor and Secretary. Otherwise, businesses may telework if possible.

During the Yellow Phase, businesses that operated remotely through individual telework of their employees during the Red Phase must continue to telework to prevent the spreading of COVID-19. However, certain life-sustaining businesses that cannot conduct either all or part of their operations via telework are permitted to conduct in-person operations, and certain non-life sustaining businesses are permitted to restart their in-person operations through the loosening of some restrictions that were in place under the stay at home and business closure orders.

During the Green Phase, businesses that were operating remotely through individual telework of their employees are strongly encouraged to continue to telework during the Green Phase to prevent the spreading of COVID-19. However, businesses operating in counties that are in the Green Phase may conduct in-person operations in accordance with this Guidance.

Businesses in the Commonwealth that are permitted to conduct in-person operations during the disaster emergency must take precautions to protect their employees, their employees’ families, and their communities as a whole. All businesses (including those businesses whose in-person operations were originally closed and later permitted to reopen) conducting in-person operations must review this guidance and commit to ensuring the health and safety of their employees and the public.

The precautions and requirements that businesses must implement are more fully outlined in the following documents:

- 1) [Order](#) of the Secretary of Health providing for building safety measures, issued April 5, 2020;
- 2) [Order](#) of the Secretary of Health providing for business safety measures (to keep employees and customers safe), issued April 15, 2020;
- 3) [Guidance](#) issued by the Department of Health to the Construction Industry, issued April 19, 2020;
- 4) [Guidance](#) issued by the Department of State to the Real Estate Industry, reissued April 28, 2020;
- 5) [Guidance](#) issued by the Governor regarding Vehicle Transactions, issued April 20, 2020;

- 6) [Guidance](#) issued by the Governor to the Restaurant Industry, issued May 27, 2020;
- 7) Orders of the [Governor](#) and the [Secretary of Health](#) providing for the Continued Reopening of the Commonwealth, issued May 27, 2020;
- 8) Orders of the [Governor](#) and the [Secretary of Health](#) directing the Limited Opening of Businesses, Lifting of Stay at Home Requirements, and Continued Aggressive Mitigation Efforts, issued May 7, 2020;
- 9) Other future applicable Administration, [Department of Health](#) (DOH) and Centers for Disease Control and Prevention (CDC) [guidance](#).

BUSINESSES SUBJECT TO THIS GUIDANCE

All businesses in all industries and sectors of the economy (including non-profit entities) in the Commonwealth, which are permitted to conduct in-person operations, are subject to this guidance unless they are otherwise more stringently regulated under separate industry-specific guidance. For instance, health care providers are governed by DOH's guidance provided to health care providers and its HANs (Health Alert Network guidance).

SIGNIFICANCE OF RED-YELLOW-GREEN PHASES FOR BUSINESSES

The Commonwealth is employing a regional and industry-specific approach to reopening non-life-sustaining businesses. In counties that have been designated as in the Red Phase, businesses permitted to conduct in-person operations are 1) those listed as life sustaining according to the Governor's and Secretary's Non-Life Sustaining Business Closure Orders (as amended), 2) those that received an exemption from those Orders from the Department of Community and Economic Development, or 3) those permitted to conduct in-person operations pursuant to a subsequent applicable Order or amendment to those Orders from the Governor and Secretary including:

- a. Construction Industry;
- b. Vehicle Dealerships; and
- c. Real Estate Industry.

In counties that have been designated as in the Yellow Phase, all businesses, except those categories specifically excluded in the [Governor's Process to Reopen Pennsylvania](#) and the Governor's and Secretary of Health's orders, are permitted to conduct in-person operations, so long as they strictly adhere to the requirements of this guidance.

In counties that have been designated as in the Green Phase, all businesses (including those restricted or prohibited in the Yellow Phase) are authorized to conduct in-person operations as long as the businesses follow CDC and Department of Health guidelines, the [Orders](#) of the [Governor](#) and the [Secretary of Health](#) providing for the Continued Reopening of the Commonwealth, issued May 27, 2020, and other orders or guidance that may be required based on monitoring of public health indicators.

POLICY

It is the policy of the Administration to ensure that all businesses subject to this guidance conduct their operations in the manner best designed to prevent or mitigate the spread of COVID-19 and ensure the safety of their employees and the communities in which the businesses reside or serve. All businesses authorized to maintain in-person operations must strive to minimize opportunities for personal interaction because such interactions provide greater opportunities for the transmission of COVID-19. In the Red and Yellow Phases, businesses must employ remote or virtual methods of doing business whenever and wherever possible. However, even in the Green Phase, businesses are strongly encouraged to continue to employ remote or virtual methods of doing business whenever and wherever possible.

Businesses that are permitted to conduct in-person operations and activities must adhere strictly to this guidance. In addition, businesses that maintain in-person operations must make their employees and customers aware of the efforts and commitment to protecting their health and safety. Businesses are strongly encouraged to stagger the return of employees to in-person operations, to limit the number of in-person interactions that risk the spread of disease.

PROTECTING EMPLOYEES WORKING IN THE COMMONWEALTH

All businesses conducting in-person operations as permitted in each respective Phase must do the following:

- ✓ Clean and disinfect high-touch areas frequently and continue to regularly clean all other areas of the building(s);
- ✓ Establish and implement a plan **in case the business is exposed to a probable or confirmed case of COVID-19, that includes:**
 - Securing and decontaminating the affected areas by:
 - Closing off areas visited by the person who is a probable or confirmed case of COVID-19;
 - Opening outside doors and windows and using ventilation fans to circulate air in the area;
 - Waiting at least 24 hours, or as long as practical, before cleaning and disinfecting the affected area;
 - Cleaning and disinfecting all shared areas such as offices, bathrooms, break rooms, shared electronic equipment (tablets, touch screens, keyboards, remote controls) and ATM machines used by the sick person;
 - Identifying employees who were in close contact (within about 6 feet for 10 minutes or more) with a person with a probable or confirmed case of COVID-19 from the period 48 hours before symptom onset to the time at which the patient isolated.
 - If any employee who was in close contact remain asymptomatic, the employees should adhere to the practices set out by the CDC in its [April 8, 2020 Interim Guidance](#) for Implementing Safety Practice for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19;
 - If the affected employee becomes sick during the workday, the person should be sent home immediately. Surfaces in the employee's workspace should be cleaned and disinfected. Information on other employees who had contact with the ill employee during the time the employee had symptoms and 48 hours prior to symptoms should be compiled. Others at the workplace with close contact within 6 feet of the employee during this time are considered exposed;
 - Promptly notify employees who were close contacts of any known exposure to COVID-19 at the business premises, consistent with applicable confidentiality laws.
 - Taking each employee's temperature before they enter the business and sending home those who have a temperature of 100.4 degrees Fahrenheit, or higher. Ensure employees practice social distancing while waiting to have temperatures screened;
 - Informing employees that if they have symptoms (i.e., fever, cough, or shortness of breath), they should notify their supervisor and stay home;
 - Advising sick employees to follow CDC-recommended steps, including not returning to work until the CDC criteria to discontinue home isolation are met, in consultation with health care providers and state and local health departments;
 - Employers are encouraged to implement liberal paid time off for employees who do not return to work for the reasons set forth above.
- ✓ Prevent large groups from entering or leaving the building by staggering work start and stop times;

- ✓ Limit the number of people in employee common areas, like locker rooms or break rooms, and ensure these areas are cleaned frequently;
- ✓ Conduct meetings and trainings virtually. If a meeting needs to be held in person, limit the number of employees to 10 in the Red Phase, 25 in the Yellow phase, and 250 in the Green Phase, while maintaining a social distance of six feet;
- ✓ Make sure employees have access to soap and water to wash their hands, hand sanitizer and disinfectant wipes;
- ✓ Provide non-medical masks for employees to wear at all times and make it mandatory to wear masks while on the work site. Employers may approve masks obtained or made by employees according to [Department of Health policies](#);
- ✓ Make sure the facility has enough employees as applicable to follow these protocols and conduct business effectively and safely;
- ✓ Discourage non-essential visitors from entering the business premises;
- ✓ Communicate these procedures to all employees to ensure that everyone knows how to be safe.

PROTECTING EMPLOYEES IN THE COMMONWEALTH THAT SERVE THE PUBLIC

Any business that serves the public inside a building or other defined area must follow the above guidance **and** take the additional precautions listed below when conducting in-person operations as permitted in each respective Phase:

- ✓ Conduct business with the public by appointment only, whenever possible;
- ✓ If appointment-only service is not feasible, limit the number of people inside the building or defined area to:
 - Red and Yellow Phase: No more than 50% of the total maximum occupancy for businesses permitted to operate during the Yellow Phase;
 - Green Phase:
 - No more than 50% of the total maximum occupancy for businesses that were not permitted to conduct in-person operations in the Red or Yellow Phases; and
 - No more than 75% for businesses that were permitted to conduct in-person operations in the Red and Yellow Phases.
 - Please note, businesses must still enforce social distancing requirements, which may limit occupancy below the 50% or 75% maximum capacity as applicable;
- ✓ Modify the hours of business so that there is enough time to clean and restock;
- ✓ Install shields or other barriers at registers and check-out areas to physically separate cashiers and customers, or take other measures to maintain social distancing between customers and employees;
- ✓ Encourage customers to use online ordering by providing delivery or pick-up options;
- ✓ Designate a specific time for people at high risk, including those over the age of 65 to use the business at least once a week;
- ✓ Require all customers to wear masks while on the premises. Businesses that provide medication, medical supplies or groceries must provide an alternate, no contact, means of delivering goods for customers who cannot wear a mask.
 - However, individuals who cannot wear a mask due to a medical condition (including children under the age of 2 years per CDC guidance) may enter the premises and are not required to provide documentation of such medical condition
- ✓ In retail businesses with multiple check-out lanes, limit use to every other register. After every hour, rotate customers and employees to the previously closed registers and clean the previously open registers and the surrounding areas;
- ✓ Schedule handwashing breaks for employees at least every hour; and
- ✓ Assign an employee to wipe down carts and handbaskets before the customer uses it.

No business is required to conduct in-person operations, and should not do so, even if it would be otherwise permissible, unless the business is able to do comply with this guidance. Businesses permitted to conduct in-

person operations that are unable or unwilling to comply with these requirements may engage in curbside delivery to customers so long as strict social distancing and other mitigation measures are followed.

SPECIFIC GUIDELINES APPLICABLE TO YELLOW PHASE

During the Yellow Phase, businesses serving the public that inherently involve close contact with customers, and therefore cannot attain social distancing, are not permitted to conduct in-person operations until the county in which the business is such measures are lifted. This includes the following types of businesses: indoor recreation (including indoor malls), health and wellness facilities, personal care services (such as gyms, spas, hair salons, massage therapy providers), and all entertainment (such as casinos, theaters, etc.).

SPECIFIC GUIDELINES APPLICABLE TO THE GREEN PHASE

During the Green Phase, personal care services, including hair salons and barbershops, operating in the Green Phase counties must comply with the occupancy limitations specified above (no more than 50% of maximum capacity) and must operate by appointment only. Appointments or reservations are strongly encouraged for all indoor recreation and health and wellness facilities such as gyms or spas, and all other businesses where feasible.

Visitation to prisons and hospitals may resume for facilities operating in the counties specified in Section 1(A) above, subject to the determination of the individual facilities which may still limit visitation as necessary based on risk of COVID-19. Visitors who interact with residents and patients must be diligent regarding hygiene. Given the critical importance in limiting COVID-19 exposure in nursing homes, nursing home visitation restrictions will initially remain in place.

GUIDANCE SPECIFIC TO GATHERINGS AND EVENTS

Gatherings and events, such as meetings, concerts, conferences, fairs, festivals, sporting events, movie showings or theater performances are subject to specific conditions within each phase of reopening. These conditions require that facilities limit the total number of individuals gathering for each discrete gathering or event within the facility, notwithstanding the maximum occupancy of the facility.

- In the Red Phase of reopening, gatherings for a planned or spontaneous event are limited to a maximum of 10 individuals.
- In the Yellow Phase of reopening, gatherings for a planned or spontaneous event are limited to a maximum of 25 individuals.
- In the Green Phase of reopening, gatherings for a planned or spontaneous event are limited to a maximum of 250 individuals.

STATE AND LOCAL GOVERNMENTS

Local political units were not explicitly required to suspend in-person operations under the business closure orders issued by the Governor and the Secretary on March 19, 2020. However, they were advised to curtail in-person operations to the extent practicable and to follow COVID-19 mitigation guidance provided by the Department and the CDC. Similarly, local political units are not required to follow the Secretary's building and business safety orders; however, they are advised to implement the protocols that it outlines to the extent practicable.

Although the Commonwealth is not a business that is directly covered by this guidance, Governor Wolf has chosen to implement the practices outlined here where possible as an example for other employers and employees in the Commonwealth.

Local political units should use best judgment in exercising their authorities and issuing implementation directives and guidance. All such decisions should appropriately balance public health and safety while ensuring the continued delivery of critical services and functions. Government employees and contractors should continue to operate under the direction of their supervisors.

RELIGIOUS GATHERINGS

Churches, synagogues, temples, mosques and other places of congregate worship are specifically excluded from the limitations established by this Guidance. These institutions are strongly encouraged to institute social distancing and other mitigation measures like masking at their gatherings.

FURTHER GUIDANCE AND SUPPORT

Businesses that have questions about whether this guidance applies to them may contact the Department of Health at 1-877-PA-HEALTH ([1-877-724-3258](tel:1-877-724-3258)).

Answers to frequently asked questions (FAQs) involving application of the business safety order are available [here](#).

Answers to frequently asked questions (FAQs) involving application of the building safety order are available [here](#).

In addition, answers to frequently asked questions (FAQs) involving application of the construction industry guidance are available [here](#).

Help is available for people who are struggling with their mental or emotional health or feeling anxious or overly stressed. Contact the Crisis Text Line by texting PA to 741-741.

The Administration recognizes the difficulty of procuring materials businesses need to safely resume operations. If assistance is needed to locate masks and other supplies to carry out these required safety procedures, please visit DCED's [Business2Business Interchange](#).

ENFORCEMENT

Enforcement of the Secretary's Order Directing Building Safety Measures began at 12:00 AM on Monday, April 6, 2020.

Enforcement of the Secretary's Order Directing Public Health Safety Measures for Businesses Protection Order began at 8:00 PM on Sunday, April 19, 2020.

The governor has directed the following state agencies and local officials to enforce orders related to the COVID-19 pandemic to the full extent of the law:

- Department of Health;
- Department of Agriculture;
- Department of Labor and Industry;
- Pennsylvania State Police;
- Local officials, using their resources to enforce closure orders within their jurisdiction;

- Pennsylvania Liquor Control Board.

Law enforcement officers should refer to Enforcement Guidance available online [here](#).

If employees or customers want to report possible health and safety violations in the workplace related to COVID-19:

1. File a complaint with a local health department or a law enforcement agency.
2. Submit this [webform](#) to the PA Department of Health at www.health.pa.gov.
3. Review OSHA guidance and, if appropriate, [file a complaint](#) at OSHA.gov.

REMINDERS TO CONTAIN THE SPREAD OF COVID-19: SOCIAL DISTANCING AND OTHER REQUIREMENTS

When people need to leave their places of residence in connection with allowable individual activities, allowable essential travel, or by virtue of exemption from this policy, the Department of Health strongly encourages individuals to abide by the following social distancing requirements to:

- Maintain a distance of at least six feet from other individuals;
- Wash hands with soap and water for at least 20 seconds as frequently as possible, or use hand sanitizer if soap and water are not available;
- Cover coughs or sneezes with a sleeve or elbow, not hands; Do not shake hands;
- Regularly clean high-contact surface areas;
- When sick, stay at home.

REQUIREMENTS FOR COMMUNICATING WITH EMPLOYEES AND ANY ON-SITE CUSTOMERS ABOUT COVID-19 SAFETY

Businesses conducting in-person operations or serving the public are required to make employees and customers aware of the guidance provided by the Commonwealth to keep people at their establishment safe. In addition, businesses are required to publicly acknowledge their responsibility to conduct their operations to ensure the health.

Businesses must print, sign, and post the “COVID-19 Safety Procedures for Businesses” flyer on their premises. The flyer is located on the [Resources for COVID-19 webpage](#). Businesses must post the signed flyer in employee common space and, if the business serves the public, the business must also post the flyer near the business’s public entrance(s) in prominent location(s).

NOTE: The Commonwealth’s [Resources for COVID-19 webpage](#) offers two versions of the flyer. One is a document that can be printed on ONE [8.5x14-inch](#) (legal) piece of paper. The other is a document that can be printed on TWO [8.5x11-inch](#) (letter) pieces of paper. Additionally, Spanish translations are also available (both a [8.5x11-inch version](#) and a [8.5x14-inch version](#)) on the [Resources for COVID-19 webpage](#). The business can choose which version to use and post at its location(s). The business does not have to use both versions.

Businesses must sign the flyer on the space provided. The signature is an acknowledgement that the owner or management is aware of the COVID-19 safety procedures and understands their responsibilities to carry out the guidance and procedures. The flyer must be signed by the business's corporate officer, site manager, site foreperson, or equivalent. The flyer also contains a space for the business to indicate the employee who is the "Pandemic Safety Officer," or the person in charge of the COVID-19 safety procedures for the business (specific workplace). The signed acknowledgement and Pandemic Safety Officer designation should not be returned to the Commonwealth – it must be simply posted and available if requested by local law enforcement.

The Commonwealth encourages businesses to share this guidance or the flyer electronically with employees as well.

There is no requirement to submit a safety response plan to the Commonwealth.

ADDITIONAL INFORMATION

The Administration will continue to monitor public health indicators and will revise the foregoing restrictions, as necessary.

For the most up-to-date, reliable information, please continue to refer to the Commonwealth of Pennsylvania's website for Responding to COVID-19 in Pennsylvania: <https://www.pa.gov/guides/responding-to-covid-19/>.

GUIDANCE FOR BUSINESSES IN THE RESTAURANT INDUSTRY PERMITTED TO OPERATE DURING THE COVID-19 DISASTER EMERGENCY TO ENSURE THE SAFETY AND HEALTH OF EMPLOYEES AND THE PUBLIC

PURPOSE

The virus that causes the Coronavirus 2019 Disease (“COVID-19”) is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to safeguard public health and safety.

COVID-19 can be transmitted from infected individuals even if they are asymptomatic or their symptoms are mild, such as a cough. It can also be spread by touching a surface or object that has the virus on it and then touching your mouth, nose or eyes. This guidance document addresses the procedures businesses in the restaurant industry must follow to limit the spread of COVID-19 to the extent they are permitted to conduct in-person operations.

BUSINESSES SUBJECT TO THIS GUIDANCE

The Commonwealth is employing a regional and industry-specific approach to reopening non-life-sustaining businesses. All business owners should refer to the Commonwealth’s [Phased Reopening](#) website for the most current county designations.

SIGNIFICANCE OF RED-YELLOW-GREEN PHASES FOR RESTAURANT AND RETAIL FOOD SERVICE BUSINESSES

Restaurants and retail food service businesses located in counties designated as being in the Red phase are permitted to provide take-out and delivery sales only and may not allow the service or consumption of food or beverages on the premises.

Beginning June 5, 2020, restaurants and retail food service businesses located in counties designated as being in the Yellow phase are permitted to provide take-out and delivery sales, as well as dine-in service in outdoor seating areas so long as they strictly adhere to the requirements of this guidance including maximum occupancy limits.

- Indoor areas, including bar areas, of restaurants and retail food service businesses must be closed to customers except for through-traffic. Non-bar seating in outdoor areas (i.e., tables or counter seats that do not line up to a bar or food service area) may be used for customer seating.
- Customers being served must be seated at a table.

All retail food service businesses, including restaurants, and bars located in counties designated as being in the Green phase are permitted to provide take-out and delivery sales, as well as dine-in service in both indoor and outdoor seating areas, so long as they strictly adhere to the requirements of this guidance including maximum occupancy limits.

- Bar seating may be utilized provided that customers are seated and comply with physical distancing guideline of at least 6 feet or physical barriers between customers. Standing in a bar area will not be permitted.
- A maximum of four customers that have a common relationship may sit together at the bar, while adhering to the physical distancing guidelines or barriers between other customers.

No business is required to conduct in-person operations, and should not do so if the business is unable to do so in accordance with all applicable guidance.

POLICY

It is the policy of the Administration to ensure that all businesses subject to this guidance conduct their operations in the manner best designed to prevent or mitigate the spread of COVID-19 and ensure the safety of their employees and the communities in which the businesses reside or serve. All businesses, even those that are authorized to maintain in-person operations, must minimize opportunities for personal interaction because such interactions provide greater opportunities for the transmission of COVID-19.

PROTECTING EMPLOYEES AND THE PUBLIC

All businesses and employees in the restaurant and retail food service industry authorized to conduct in-person activities pursuant to this guidance must do the following:

- Follow all applicable provisions of the Guidance for Businesses Permitted to Operate During the COVID-19 Disaster Emergency to Ensure the Safety and Health of Employees and the Public, available [here](#), including provisions requiring the establishment of protocols for execution upon discovery that the business has been exposed to a person who is a probable or confirmed case of COVID-19.
- Require all customers to wear masks while entering, exiting, or otherwise traveling throughout the restaurant or retail food service business. Face coverings may be removed while seated.
 - Individuals who cannot wear a mask due to a medical condition (including children under the age of two years per CDC guidance) are not required to wear masks and are not required to provide documentation of such medical condition.
- Provide at least six feet between parties at tables, (i.e., the six feet cannot include the space taken up by the seated guest). If tables or other seating are not movable, seat parties at least six feet apart.
- Spacing must also allow for physical distancing from areas outside of the facility's control (i.e. such that pedestrians on a sidewalk can pass with at least six feet of distance to customer).
- Ensure maximum occupancy limits for indoor and outdoor areas are posted and strictly enforced. Maximum occupancy is calculated using the following two methods. The more restrictive number must be used.
 - Method 1. Limit to 50% of stated fire capacity or 12 people per 1,000 square feet if there is not a fire code number available. When no fire code number is available for outdoor dining, the 12 people per 1,000 square feet number should be applied.

- Method 2. Arrange the restaurant or retail food service business so that customers sitting at a table are not within six feet of any customers sitting at another table in any direction and calculate the maximum number of customers that can be accommodated.
- Don't use shared tables among multiple parties unless the seats can be arranged to maintain six feet of distance between parties.
- Close or remove amenities and congregate areas non-essential to the preparation and service of food or beverages such as dance floors, child play areas, interactive games, and video arcades.
- Train all employees on the importance and expectation of increased frequency of handwashing, the use of hand sanitizer with at least 60% alcohol, and provide clear instructions to avoid touching hands to face.
- Assign employee(s) to monitor and clean high touch areas frequently while in operation including entrance doors, bathroom surfaces, host stands etc., and continue to regularly clean all other areas of the restaurant or retail food service businesses. Clean and disinfect any shared items with which customers will come in contact such as tabletops, digital menus, check presenters, and digital payment devices after each customer use.
- Implement procedures to increase cleaning and sanitizing frequency in the back of house. Avoid all food contact surfaces when using disinfectants.
- Provide physical guides, such as tape on floors or sidewalks and signage on walls to ensure that customers remain at least six feet apart in lines or waiting for seating or in line for the restroom. Encourage customers ordering take-out to wait in their vehicles after ordering.
- Close or remove amenities and congregate areas non-essential to the preparation and service of food or beverages such as dance floors, game areas, playgrounds, etc.
- Provide non-medical masks for employees to wear at all times and make it mandatory to wear masks while at the restaurant or retail food service business. An employee does not need to wear a mask if it impedes their vision, if they have a medical condition, or if it would create an unsafe condition in which to operate equipment or execute a task. Employers may approve masks obtained or made by employees according to Department of Health policies.
- Where possible, stagger work stations to avoid employees standing adjacent or next to each other. Where six feet of separation is not possible, consider spacing options that include other mitigation efforts with increased frequency of cleaning and sanitizing surfaces.
- Establish a limit for the number of employees in shared spaces, including break rooms, and offices to maintain at least a six-foot distance.
- Ensure employees do not share equipment to the extent possible (e.g., cooking equipment, trays, etc.).
- Verify that dishwashing machines are operating at the required wash, rinse and sanitize temperatures and with appropriate detergents and sanitizers.
- Follow all requirements of the Department of Agriculture's [Food Code regulations](#), even when altering from normal types of food delivery.

All businesses and employees in the restaurant and retail food service industry authorized to conduct in-person activities pursuant to this guidance are encouraged to do the following:

- Establish a written, worksite-specific COVID-19 prevention plan at every location, perform a comprehensive risk assessment of all work areas, and designate a person to implement the plan.
- Prior to each shift, ask that the employees self-measure their temperature and assess symptoms.
- Utilize reservations for dining on premises to maintain records of all appointments, including contact information for all customers.
- Use staff-facilitated seating where appropriate. If seating is not staff facilitated and tables cannot be moved to meet the physical distancing requirements outlined above, tables that should not be used must be clearly marked as out of service.
- Allow no more than 10 people at a table, unless they are a family from the same household.
- Use single-use disposable menus (e.g., paper) and discard after each customer, or utilize a written posting such as a chalkboard or whiteboard to relay menu information.
- Use technology solutions where possible to reduce person-to-person interaction, including mobile ordering; text or phone app technology to alert customers when their table is ready to avoid use of “buzzers;” and contactless payment options.
- Install physical barriers, such as sneeze guards and partitions at point of sale terminals, cash registers, bars, host stands, and other areas where maintaining physical distance of six feet is difficult.
- Consider methods to make point of sale terminals safer, including use of no contact applications, placement of a glass or clear plastic barrier between the employee and the customer, and providing a hand sanitizer station for customer and employee use after handling credit/debit cards, PIN terminals, or exchange of cash.
- Consider installing touchless door and sink systems or providing single-use barriers (e.g., deli tissues, paper towels) for use when touching door and sink handles.
- Schedule closure periods throughout the day to allow for cleaning and disinfecting, including bathrooms (i.e., after lunch service).
- Servers should avoid touching items on tables while customers are seated to the extent possible. Dedicated staff should remove all items from the table when customers leave.
- Use separate doors to enter and exit the establishment when possible.
- When protective equipment such as face coverings are used, launder daily and wash hands after touching/adjusting face covering while working.

All businesses and employees in the restaurant and retail food service industry authorized to conduct in-person activities in Yellow phase counties pursuant to this guidance are prohibited from doing the following:

- Using self-service food or drink options, such as buffets, salad bars, and condiments.
- Condiments must be removed from tables and dispensed by employees upon the request of a customer.
- Using reusable menus, other than digital menus sanitized after each use.
- Refilling food and beverage containers or implements brought in by customers.

This guidance does not authorize any specific external area near or adjacent to a business in the restaurant industry for outdoor dining. Businesses must obtain any permits or other authorization, as required, to serve food and beverages outside of physical indoor service areas.

FURTHER GUIDANCE AND SUPPORT

Answers to frequently asked questions (FAQs) involving application of the business safety order are available [here](#).

In addition to this guidance restaurants and retail food service businesses may wish to review the CDC's Considerations for Restaurants and Bars, available [here](#).

Help is available for people who are struggling with their mental or emotional health or feeling anxious or overly stressed. Contact the Crisis Text Line by texting PA to 741-741.

The Administration recognizes the difficulty of procuring materials businesses need to safely resume operations. If assistance is needed to locate masks and other supplies to carry out these required safety procedures, please visit DCED's [Business2Business Interchange](#).

ENFORCEMENT

Failure to strictly adhere to the requirements of this guidance may result in disciplinary actions up to and including suspension of licensure, including liquor licenses.

Law enforcement officers should refer to Enforcement Guidance available online [here](#).

If employees or customers want to report possible health and safety violations in the workplace related to COVID-19:

1. File a complaint with a local health department or a law enforcement agency.
2. Submit this [webform](#) to the PA Department of Health at www.health.pa.gov.
3. Review OSHA guidance and, if appropriate, [file a complaint](#) at OSHA.gov.

REMINDERS TO CONTAIN THE SPREAD OF COVID-19: SOCIAL DISTANCING AND OTHER REQUIREMENTS

When people need to leave their places of residence in connection with allowable individual activities, allowable essential travel, or by virtue of exemption from this policy, the Department of Health strongly encourages individuals to abide by the following social distancing requirements to:

- Maintain a distance of at least six feet from other individuals;

- Wash hands with soap and water for at least 20 seconds as frequently as possible, or use hand sanitizer if soap and water are not available;
- Cover coughs or sneezes with a sleeve or elbow, not hands; Do not shake hands;
- Regularly clean high-contact surface areas;
- When sick, stay at home;
- Follow all guidance on gathering sizes applicable in Yellow and Green counties.

ADDITIONAL INFORMATION

For the most up-to-date, reliable information, please continue to refer to the Commonwealth of Pennsylvania's website for Responding to COVID-19 in Pennsylvania: <https://www.pa.gov/guides/responding-to-covid-19/>.

Guidance for Licensees in “Green” Counties

On May 27, 2020, the Governor’s office issued additional guidance as part of his ongoing response to the COVID-19 public health crisis. This additional guidance included the designation of several counties as “green” counties, effective May 29, 2020. The Governor’s office also provided some [additional guidance for businesses in the restaurant industry](#), which all licensees are encouraged to review, and the following information supplements that direction for licenses in green counties.

Indoor Seating for Restaurant, Retail Dispenser and Hotel Licensees

Indoor seating in green counties is allowed but not required for restaurant, retail dispenser and hotel licensees. Seating is limited to the lesser of 50% of stated fire capacity or 12 persons per 1,000 square feet. For example, if your stated fire capacity is 40 and you have a building that is 2,000 square feet in size, you may have no more than 24 customers ($2,000 \div 1,000 = 2$; $2 \times 12 = 24$, which is less than 40).

If a licensee chooses to provide seating for on-premises consumption of alcohol, then they must also provide for on-premises consumption of food. All additional conditions set forth in the [Governor's guidance issued on May 27, 2020](#), must be adhered to. These restrictions include the requirement that customers must be at least six feet away from each other or be separated by physical barriers. In addition, standing in a bar area is not permitted, alcohol service is limited to table or bar service (except for golf courses) and no more than four customers with a common relationship (a family, for example) may sit together at a bar.

Outdoor Seating for Restaurant, Retail Dispenser and Hotel Licensees

Outside seating in both licensed and unlicensed locations is permitted. The same restrictions imposed on indoor seating, such as no more than four customers sitting together at a bar and a minimum of six feet or a physical barrier between customers, apply to outdoor seating as well.

If the outside area is licensed, then service of food and alcohol there is permitted.

If the outside area is not licensed, then service of food is permitted, but service of alcohol is NOT permitted.

- However, patrons may purchase up to 192 ounces of beer to go on the licensed premises, then carry it to and consume it on the unlicensed service area.
- Further, if the licensee holds a wine expanded permit, then patrons may purchase up to 3 liters of wine on the licensed premises, then consume it on the unlicensed service area.

- Finally, if the licensee [qualifies to sell prepared beverages and mixed drinks to go](#), then a patron may purchase a prepared beverage and mixed drink of between 4 and 64 ounces in a closed container on the licensed premises, open the container once they leave the licensed premises and consume it on the unlicensed service area.

Clubs and Catering Clubs

Holders of club and catering club licenses may allow members to be served on the licensed premises. Food sales are permitted, but not required, at club locations. If a club decides to allow members on the licensed premises, it must follow the social distancing rules set forth above for restaurant industry members, such as limiting occupancy and limiting seating at a bar to no more than four members with a common relationship. As a reminder, clubs and catering clubs cannot sell any alcohol for off-premises consumption.

Breweries, Limited Wineries, Distilleries and Limited Distilleries

Many manufacturers, such as breweries, limited wineries, distilleries and limited distilleries, also offer food and drink for on-premises consumption. The rules applicable to restaurant, retail dispenser and hotel licensees are likewise applicable to them. Specifically, on-premises consumption of food and alcohol is now permissible so long as the occupancy limitations, social distancing limitations and the other limitations set forth above are adhered to. In addition, the rules for social gathering for outside locations likewise apply.

Note that a holder of a brewery license who also holds a brewpub license must offer food for on-premises consumption if they are offering beer for on-premises consumption.

As a reminder, breweries, limited wineries, distilleries and limited distilleries may sell their own products for off-premises consumption, but may not sell products acquired from other breweries, limited wineries, distilleries and limited distilleries to go, although such products may be sold for on-premises consumption.

Special Occasion, Off-Premises Catering, Exposition and Farmers Market Permits

Licensees are reminded that permits such as special occasion permits, off-premises catering permits, exposition permits and farmers market permits each have specific eligibility requirements and those requirements must be followed or licensees risk citation.

Golf Courses

[Licensees that are located at golf courses were previously informed that they may provide alcohol service to individuals playing golf.](#) That remains true even though such service would not be at a table.



ADVISORY NOTICE NO. 26 (Second Revision)

TEMPORARY CESSATION OF THE SALE OF FOOD AND ALCOHOL FOR ON- PREMISES CONSUMPTION RELATIVE COVID-19 PUBLIC HEALTH EMERGENCY

June 3, 2020

TO: All License Holders

The PLCB, upon authorization from the Governor, has the authority under the Liquor Code (47 P.S. §4-462) to mandate the closure of licensed establishments in times of emergency. Section 7101 of the Emergency Management Services Code (35 Pa.C.S. § 7101) gives the Governor wide latitude in dealing with disasters such as the public health crisis precipitated by the outbreak of the COVID-19 coronavirus. As part of that authority and in response to the current public health emergency, the Wolf Administration had previously asked all retail establishments to cease selling food and alcohol for on-premise consumption. The Board had indicated that, pursuant to the Governor's directive, licensees no longer needed to sell food and alcohol for on-premise consumption as a precondition to sell alcohol for off-premise consumption.

On March 18, 2020, the Board directed that all retail licensees, clubs, permittees and producers cease the sale of food and alcohol for on premises consumption, effective at 8 p.m. that day and until further notice, in the interest of slowing the spread of the COVID-19 virus and mitigating the unprecedented public health crisis the commonwealth faces. The Board provided additional guidance in the form of this Advisory Notice, Advisory Notice No. 26.

On April 27, 2020, the Governor authorized golf courses to open, effective May 1. In response, the Board provided [additional guidance for golf courses](#).

Subsequent to the original emergency declaration, the Governor indicated that he intended to use a phased approach in lifting the emergency declaration by designating counties in red, yellow and green phases of recovery. On May 13, 2020, the Board revised this Advisory Notice to address that issue and to make clear that the Board will only recognize the Governor's designation of a county, since only the Governor can make such designations.

On May 21, 2020, Act 21 of 2020 went into effect, allowing certain restaurant and hotel licenses to sell prepared beverages and mixed drinks to go. In response, the Board provided guidance on [what licensees should know about Act 21 of 2020](#).

On May 27, 2020, the Governor's office provided [additional guidance on what activities are permissible in green counties and further indicated a change in what is permissible in yellow counties](#).

On May 29, 2020, the Board provided [guidance as to what is permissible in green counties](#).

Following is a summation of what is and is not permitted in the counties in Pennsylvania, depending on their color designation.

In RED Counties:

- Restaurant, retail dispenser and hotel licensees may not allow the service or consumption of food or alcohol on the licensed premises. Beer and food sales to go are still permitted, as are hotel sales of food and alcohol for consumption in private rooms. Sales of prepared beverages and mixed drinks to go are permitted, by those licensees that are eligible to make such sales.
- Licensees holding wine expanded permits authorizing the sale of wine to go may not allow the service or consumption of food or alcohol on the licensed premises. Sales to go are still permitted, as are the operation of a grocery store, convenience store or gas station next to the licensed premises.
- Airport restaurant license holders may not allow the service or consumption of food or alcohol on the licensed premises. Sales to go are still permitted.
- Clubs and catering clubs may not allow the service or consumption of food or alcohol on the licensed premises, and such licensees are not authorized to sell any alcohol to go. They may continue selling food to go.
- Permittees including special occasion, off-premise catering, exposition and farmers markets may not allow the service or consumption of food or alcohol on the licensed premises or at public gatherings. It is incumbent upon the permit holder to ensure that the event qualifies as a bona fide exposition/event before conducting sales of alcohol or offering tastings under authority of the permit.
- Breweries, distilleries/limited distilleries and limited wineries may not allow the service or consumption of food or alcohol on the licensed premises. Sales of the producer's own alcohol for off-premises consumption is permitted.
- Sacramental wine licensees may not allow food or beverage consumption on premise but may sell sacramental wine for consumption off premise.

In YELLOW Counties:

- Until June 5, 2020, licensees in yellow counties must adhere to the same rules as those for red counties as set forth above.
- Beginning June 5, 2020, licensees in yellow counties may allow dine-in service in outdoor seating areas consistent with the [restaurant industry guidance issued by the Governor's office](#) on May 27, 2020.

In GREEN Counties: Licensees are encouraged to follow the PLCB's [guidance as to what is permissible in green counties](#).

Temporary Board Procedures Expediting Extensions of Licensed Premises for Additional Outdoor Serving Areas

The Governor's decision to encourage outside dining has led the Board to adopt temporary procedures to expedite the process for licensees that want to temporarily extend their licensed premises to include additional outside areas. These temporary procedures only apply to applications for outdoor serving areas, and effective with the adoption of this notice, the following applies:

- Emergency temporary authority for outside areas may be requested by clubs, catering clubs, restaurants, retail dispensers, hotels, distilleries, limited distilleries, wineries, limited wineries and breweries.
- Licensees that wish to apply for a temporary extension of the licensed premises to include outside serving areas, with said extension to expire at the end of the current public health emergency, may do without incurring a filing fee. If the applicant wishes to permanently extend the licensed premises, it must follow the normal application process and pay the requisite fee.
- The application process for temporary extension of premises to include an outdoor seating area is similar to a regular application to extend premises and will require a plan. If the area to be licensed is an area not previously under the applicant's control – such as a municipal sidewalk – then proof that the applicant has the right to occupy the location must be provided.
- A licensee may only submit an application for an outdoor area immediately adjacent to, abutting and contiguous to the existing licensed premises. Applications for locations not meeting these criteria will be summarily rejected, and no temporary extensions are authorized for any locations separated from a licensed premises by a public thoroughfare.
- Upon submission of the application in PLCB+, the licensee will see a confirmation screen that the application was successfully submitted for processing. The licensee must print this confirmation page and display it as evidence the application was received, and at that point, the licensee will automatically have temporary authority to operate on the proposed outdoor area. Additionally, the licensee will be directed to post a Notice of Application. Distilleries, limited distilleries, wineries, limited wineries and breweries do not need to post a Notice of Application but must display the email acknowledging the application was accepted.
- The initial authority to operate will last until one of the following occurs: (1) The COVID-19 Emergency Declaration ends, (2) a protest or petition to intervene in opposition to the application is received by the PLCB, or (3) the Board informs the applicant that authority has come to an end.
- Licensees that don't wish to extend the licensed premises to include additional outdoor areas, but instead allow customers to congregate on an unlicensed portion of the premises, must still adhere to the Governor's guidelines on social distancing.

Enforcement

Any licensee that fails to comply with the Governor's guidance risks citation by the Pennsylvania State Police Bureau of Liquor Control Enforcement (BLCE). Further, BLCE has agreed to notify the PLCB if any citations are issued relative to this issue. The PLCB may suspend a licensee's operating authority under section 462 based on the circumstances. A licensee who continues to operate after its operating privileges have been suspended risk further enforcement action by the BLCE.

Ultimately, citations may put the business's liquor license at risk, both through the citation process and upon application for renewal to the PLCB. Further, licensees are reminded that, pursuant to section 494(a) of the Liquor Code, any person who violates the applicable sections of Article IV of the Liquor Code may be charged criminally with a misdemeanor.

Finally, the PLCB has received a number of inquiries as to how beer distributors should react to business closure guidance. As suppliers to grocery stores, convenience stores and other retail licensees permitted to sell beer to go, distributors' continued operation will preserve beer accessibility for consumers. As such, the Board is not limiting distributors' operations at this time but encourages these businesses to employ social distancing best practices and avoid large public gatherings.

Complaints regarding licensees not complying with these mandates may be directed to the BLCE at 1-800-932-0602 or reported through the [BLCE's online complaint form](#).

The Board will constantly re-evaluate this policy, guided by the strategy developed by the Governor's Office and the Pennsylvania Department of Health, and lift restrictions at the appropriate time.

Any issues not covered by this Advisory Notice may be resolved by writing to the Office of Chief Counsel, ra-lblegal@pa.gov.

**BY ORDER OF:
PENNSYLVANIA LIQUOR CONTROL BOARD**

A handwritten signature in black ink, appearing to read "John K. Stark", is written over a faint, stylized background graphic that resembles a map of Pennsylvania.

JOHN K. STARK
Secretary to the Board