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 9th day of June, 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 that 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/](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](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.