

**TOWNSHIP OF THORNBURY
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1 OF 2024

AN ORDINANCE AMENDING THE THORNBURY TOWNSHIP CODE, CHAPTER 27, ZONING AND PLANNED RESIDENTIAL DEVELOPMENT, AS AMENDED, TO AMEND ARTICLE 10, COMMERCIAL DISTRICT, SECTION 27-1003, AREA, HEIGHT AND SPECIAL REGULATIONS, TO REPEAL AND REPLACE EXISTING SECTION 27-1003 9. (REGULATIONS FOR SEASONAL OUTDOOR DINING IN CONJUNCTION WITH A PERMITTED RESTAURANT USE) OF THE TOWNSHIP ZONING CODE AND REPLACE THEM IN THEIR ENTIRETY WITH NEW AND/OR AMENDED MINIMUM STANDARDS THEREFORE.

WHEREAS, the Board of Supervisors of Thornbury Township, Delaware County, Pennsylvania (the “Township”), particularly following the social isolation and financial disruption of the COVID-19 Pandemic, desires to continue to promote seasonal outdoor dining in conjunction with permitted indoor restaurant uses in order to promote and maintain the quality of life and rural character of the Township;

WHEREAS, the Board of Supervisors believes that seasonal outdoor dining, where permitted, is consistent with the intent and purpose of Section 27-1001, *C Commercial District*, of the Township Zoning Code;

WHEREAS, the Board of Supervisors recognizes the effort and expenditures made by restaurant owners and operators during the COVID-19 Pandemic to provide for temporary outdoor dining options to patrons in order to provide safe and much needed social dining opportunities while remaining viable commercial contributors to the Township community; and

WHEREAS, the Board of Supervisors understands that Ordinance No. 2 of 2022, originally enacting seasonal outdoor dining by conditional use may not have provided appropriate opportunities for restaurants in the Township to continue to utilize the outdoor dining facilities and arrangements which were put into place during the COVID-19 Pandemic.

WHEREAS, the Board of Supervisors desires to continue to allow the restaurants located within the Commercial District of the Township, to conduct seasonal outdoor dining on a permanent basis, when approved by Conditional Use, and subject to the new or revised standards and criteria set forth in Chapter 27, *Zoning and Planned Residential Development*, of the Township Code.

NOW THEREFORE IT IS HEREBY ENACTED AN ORDAINED by the Board of Supervisors of the Township of Thornbury, Delaware County, Pennsylvania, as follows:

Section 1.

Chapter 27, Zoning and Planned Residential Development, of The Thornbury Township Code of Ordinances, as amended, is hereby further amended by repealing Subsection 27-1003 9. and replacing it in its entirety as follows:

9. *Except as provided in this Article 10 to the contrary, where the Board of Supervisors permits seasonal outdoor dining as a conditional use, compliance with the following minimum standards shall be demonstrated by the applicant, in addition to any general conditional use or other applicable requirements contained in the Township Zoning Code.*
 - A. *Seasonal outdoor dining area shall be considered the entire outdoor area of a restaurant utilized for food and beverage service, the seating of patrons, and/or any other activities covered by this Ordinance as permitted by the Board of Supervisors as part of the conditional use process, subject to the following:*
 - (1) *Subject to Subsection (1) (a) below, seasonal outdoor dining areas shall be limited in size to no more than fifty percent (50%) of the interior floor space of the restaurant used for table seating for food service to patrons.*
 - (a) *where a restaurant originally established an ad hoc outdoor dining area pursuant to and in accordance with Resolution No. 9 of 2020¹, the seasonal outdoor dining area may remain in the general configuration and location so established, notwithstanding that the general configuration and location may not comply with the bulk, area, setbacks and parking requirements of this Subsection .*
 - (b) *any restaurant establishing outdoor dining after the adoption of this Ordinance shall comply with the bulk, area, setbacks and parking requirements of this Subsection.*
 - (2) *The Area, Height and Special Regulations of Subsection 27-1003, shall apply, including without limitation, the parking requirements*

¹ *A Resolution of the Board of Supervisors of Thornbury Township, Delaware County, Pennsylvania, Declaring a Temporary Moratorium on Enforcement of Outdoor Dining Activities in The Township During Recovery from the Covid-19 Pandemic.*

of Article 21, except as such regulations are expressly modified herein.

- (3) Seasonal outdoor dining areas shall not be located in a front yard.*
- (4) The minimum depth of any side or rear yard where a seasonal outdoor dining area is proposed to be located shall be equal to the minimum side or rear yard requirements as set forth in Section 27-1003, except when such side or rear yard is immediately contiguous to a Residential District, where the depth of such side or rear yard shall be equal to the largest side or rear yard setback requirements of such Residential District.*

- B. Seasonal outdoor dining areas shall be primarily for the service of and consumption of food.*
- C. Seasonal outdoor dining may also include the service of beverages (including alcoholic beverages pursuant to a valid liquor license covering the seasonal outdoor dining area), to patrons seated at tables and chairs arranged in an orderly fashion in a designated area outside and physically adjoining or generally adjacent to the permitted restaurant building. The number of tables and chairs for patrons shall be in accordance with the Township Zoning Code and Pennsylvania Liquor Control Board regulations.*
- D. There shall be no separate bar or bar facilities for the service of alcohol or other beverages in the seasonal outdoor dining area. All such bar and beverage facilities shall be located within the restaurant building. In addition, all food preparation shall take place within the restaurant building. Provided that temporary outdoor bar, bar facilities, and/or food preparation may be permitted for special events provided that an application is made with and approved by the Township through the special event permitting process.*
- E. A suitable enclosure (i.e. wall, fence and/or landscaping) shall be required around the perimeter of any seasonal outdoor dining area to visually delineate and identify seasonal outdoor dining area. Such enclosure shall be established prior to the use or occupancy of the seasonal outdoor dining area. Where a seasonal outdoor dining area abuts a residential district, a landscape buffer creating a year-round, opaque buffer shall be installed between the seasonal outdoor dining area and the abutting residential district, in addition to any seasonal outdoor dining area enclosure. Where the seasonal outdoor dining area abuts a parking area, drive aisle or other vehicle right-of-way, appropriate safety measures shall be provided for the protection of patrons and property.*

- F. *The seasonal outdoor dining area may be covered, partially or fully by means of umbrellas, an awning, canopy or similar temporary all weather cover, but in no instance shall said area be covered, fully enclosed or constructed in any fashion to permit year round use and occupancy.*
- G. *The seasonal outdoor dining area may not be in use at any time from November 16th through March 31st. During the period from April 1st to November 15th:*
- (1) *Patrons shall not be seated and food and beverages shall not be served in the seasonal outdoor dining area:*
- (a) *after 9:00 p.m. Sunday through Thursday.*
- (b) *after 10:00 p.m. Friday and Saturday.*
- (2) *The seasonal outdoor dining area shall be closed and vacated:*
- (a) *between the hours of 10:00 p.m. and 8:30 a.m. on Sunday through Thursday.*
- (b) *between the hours of 11:00 p.m. and 8:30 a.m. on Friday and Saturday.*
- H. *The design and construction of the seasonal outdoor dining area shall be compatible with the restaurant building and its landscaping features as determined by the Board of Supervisors.*
- I. *Minimum security lighting shall be provided for all seasonal outdoor seating areas. Decorative or accent lighting may be used, provided that canopy/awning lighting is directed downward. Exposed neon tube lighting shall be prohibited. All lighting shall otherwise comply with the Township Zoning Code and Township Subdivision and Land Development Code.*
- J. *Signs, banners and other forms of display shall not be permitted on the exterior of the seasonal outdoor dining area, but shall otherwise be permitted in accordance with Township Zoning Code.*
- K. *The operation of seasonal outdoor dining shall otherwise be in accordance with all applicable Township Codes, Rules and Regulations.*
- L. *The following will be permitted only if and as approved by the Township Board of Supervisors as part of the conditional use process:*

- (1) *Televisions and similar video displays with audible volume, subject to the noise requirements and limitations of the Pennsylvania Liquor Code, as amended.*
- (2) *Live musical and/or any other form of live entertainment, subject to the noise requirements and limitations of the Pennsylvania Liquor Code, as amended.*
- (3) *Playing of music over speakers and/or other sound amplification, subject to the noise requirements and limitations of the Pennsylvania Liquor Code, as amended.*
- (4) *Outdoor child play areas and/or recreational game areas (i.e. horseshoe pits, bocce ball courts, putting greens, etc.)*

Section 4. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not render this Ordinance invalid.

Section 5. Code Update.

The Township Manager is hereby authorized and directed to cause the Code of Ordinances of the Township to be updated to reflect and include the terms of this Ordinance.

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Section 6. Effective Date.

This Ordinance shall take effect and be in force five (5) days after enactment.

ENACTED AND ORDAINED this 19th day of June, A.D., 2024.

**BOARD OF SUPERVISORS OF
THORNBURY TOWNSHIP**


James P. Kelly, Chair


Sheri L. Perkins, Vice Chair


Michael J. Mattson, Supervisor

Attest:


Township Secretary

(Township Seal)

