

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING VARIOUS PARTS OF CHAPTER 27, ZONING, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, IN ORDER TO PERMIT OUTDOOR DINING AREAS THROUGHOUT THE BOROUGH AND THE CREATION OF A REIMAGINED AND REVITALIZED DOWNTOWN (CONSERVATION) DISTRICT THROUGH THE PRESERVATION AND ENHANCEMENT OF POTTSTOWN'S HISTORIC CENTRAL BUSINESS DISTRICT WITH A WIDE RANGE OF RETAIL, BUSINESS, PROFESSIONAL, GOVERNMENTAL, AND URBAN RESIDENTIAL USES, AND BY PROVIDING DEFINITIONS FOR CERTAIN USES WHICH SHALL BE RELOCATED OUT OF THE DOWNTOWN (CONSERVATION) DISTRICT BUT PERMITTED IN OTHER SPECIFIC DISTRICTS.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by the authority of same as follows:

**SECTION 1.** Section 320, Downtown (Conservation), of Part 3, Districts, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby repealed in its entirety and shall be replaced with the following:

1. Intent. To preserve and enhance Pottstown's historic central business district with a wide range of retail, business, professional, governmental, and urban residential uses.
2. Definitions. The following definitions shall be applicable to the Downtown District only, and, with respect to the Downtown District only, shall supersede any definitions in conflict herewith.

**Art Gallery.** A public or private facility that is operated as an exhibition space for individual art pieces not mass produced, consisting of one or more of the following: paintings, drawings, etchings, sculptures, or photographic prints; may include the sale or loan of the individual art pieces or the sale of related objects and services. An art gallery shall not exceed 3,000 square feet.

**Artist (Individual) Studios and Artisan Industrial.** Spaces used by artists for the creation of art or the practice of their artistic endeavors, where no individual or group instruction takes place, as well as uses that produce consumer goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations, storage or regular commercial truck parking/loading.

**Commercial or Trade School.** Such use shall include post-secondary trade schools, as well as career or vocational schools licensed by the State Board of Private Licensed Schools.

**Grocery Store or Supermarket.** A retail store principally devoted to the sale of food goods and associated household products customarily incidental to food shopping activity.

- a. Outdoor sales areas are permitted provided the area is enclosed by fencing or screening, directly adjoins the principal building, is not located in a front or buffer yard, and the outdoor area is factored into the total number of required parking spaces.
- b. When proposed in a detached building, the following standards shall apply:
  - i. The site shall have a minimum of two (2) ingress/egress locations.
  - ii. In addition to required load/unload zones, the premises shall define a customer pickup area sufficient to maintain at least four (4) vehicles without interference to the normal flow of traffic.
  - iii. Cart return areas shall be defined on the premises for each vehicle parking aisle, without reduction to required parking areas. If carts are not required by the proposed use, carts areas shall be maintained as green space in reserve.

**Health and Fitness Center.** A building, facility or structure, which through membership and/or compensation, offers facilities and programs operated by a non-governmental agency for athletic, health or recreational workout and training, including but not limited to gymnasiums, exercise and weight rooms, game courts, locker rooms, jacuzzi and sauna, reduction and tanning salons, weight control programs, classes, group instruction, and accessory pro and health food snack shops.

- a. If outdoor courts are provided, they shall comply with approved playing size standards exclusive of any required buffer areas.
- b. If outdoor playing courts are provided, a 25-foot-wide screening buffer is required to surround the playing area, which shall be landscaped according to the standards of this Chapter.
- c. When additional parking is not proposed beyond the base parking standard to accommodate additional uses, accessory uses of any type, including restaurants, retail areas and classrooms, are collectively limited to ten (10) percent of the gross floor area of the building.

**Hotel/Motel.** A facility offering transient lodging accommodations on a daily or weekly basis to the general public, having access to the accommodations only through a central lobby, and providing additional services such as restaurants, meeting rooms and recreational facilities.

- a. Accessory uses other than a restaurant located on the ground floor, shall be limited in use to paying guests of the hotel. The use must have access to a major collector or higher classification highway.
- b. The maximum permitted density for hotel/motel lodging shall be 32 overnight guest rooms per acre.
- c. The length in occupancy per transient guest shall be at least one (1) night and no more than 30 nights in a six-month period beginning at the first day of occupancy.

**Library or Museum.** Such use shall include a library or museum open to the public or connected with a permitted educational use, conducted as a non-profit operation, and not conducted as a private, gainful business; provided, however, that any retail activity is incidental to the primary purpose of the library or museum.

**Microbrewery/Microdistillery/Microwinery/Nanobrewery.** A facility for the production, packaging, and sampling of alcoholic beverages—including beer, wine, cider, and distilled liquors—for retail or wholesale distribution, for sale or consumption on- or off-premises, and which produces less than 100,000 gallons of such beverages per year. Tasting or sampling rooms or areas incidental thereto are permitted.

**Mixed-Use Building.** A building, use, or structure, other than a shopping center or lifestyle center, comprised of a mixture of uses, such that uses from at least two of the three following categories: (1) retail, (2) office, or (3) residential are provided. Particular uses in a **Mixed-Use Building** shall comply with their respective use regulations in this Article, the standards of **Mixed Use Building**, the standards of the applicable zoning district, and all other applicable regulations of this Chapter.

- a. Mixing uses of different use categories on the same floor within a building is permitted, provided that such uses are served by separate building entrances.
- b. Residential uses (one or more **Multifamily Units**) are permitted on the ground floor of a **Mixed Use Building**, provided the following standards are satisfied:
  - i. Nonresidential uses occupy 50% or more of the ground-floor square footage;
  - ii. The front area of the ground floor shall only be occupied by nonresidential uses, the front façade of which must have transparent windows and an everyday entrance from the street; and
  - iii. Residential uses shall not be accessed from the nonresidential uses of such a building.
- c. Only those uses listed in **Subsections I** through **III** below, and no other, may be permitted within a **Mixed-Use Building**, provided that the use indicated in **Subsections I** through **III** below is also specifically permitted in sub-sections (3) through (5) below.
  - i. Retail/Service – Art Gallery; Artist (Individual) Studio and Artisan Industrial; Bank or Financial Institution; Commercial or Trade School; Personal Care Business – A; Pet Grooming; Professional Service Business; Restaurant, Sit-Down; Restaurant, Take Out and Prepared Foods Shop; Retail Shop; Studio Training for

Dance, Art, Music, Photography, Yoga, Martial Arts, or Similar Arts; and/or Sundries, Pharmaceuticals, and Convenience Sales (Pharmacy).

- ii. Office – Office – Business; Office – General; Office – Municipal or Governmental; and/or Office – Professional Services.
- iii. Residential – Hotel/Motel; and/or Multifamily Unit.

**Multifamily Building/ Unit.** A multifamily dwelling is a single, detached, residential use or building containing at least three (3), separate dwelling units, with units arranged in a variety of combinations including side-by-side, over and under, or back to back with another dwelling unit. When contained in a **Mixed-Use Building, Multifamily Building/Unit** shall refer to at least one dwelling unit contained in a single building containing other uses, as described in the definition of **Mixed Use Building**.

- a. The dwelling units may share outside access and internal hallways, lobbies and similar facilities.
- b. The dwelling units cannot be individually lotted, but shall share a lot or parcel on which the building is located; except under condominium law.
- c. Uses of a multifamily unit and of accessory uses that relate to business activity are not permitted.

**Parking Structure.** A building, structure or a portion thereof designed and used for the parking of motor vehicles open to customers, patrons, tenants of a business or residence, or to the public at large, all or parts of which may be above or below ground. Parking structures shall be constructed to the following minimum standards indicated below:

- a. Retail store fronts or other business uses on the street level shall be required along all street frontages.
- b. The wall of the parking structure facing a public street or right-of-way shall be treated in such a manner as to partially screen street-level parking. Undecorated appearances of parking structures are not permitted.
- c. Underground Parking Structures: Underground parking structures are permitted within any required setback, side yard, and rear yard, on any lot in any non-residential zoning district, provided no portion of the underground structure extends

above grade more than three (3) feet at any point. A parapet or railing may extend above the permitted structure height, provided it is not greater than 36 inches in height; is set back from the property line at least three (3) feet; and has openings equal to at least 50% of its surface along each side. Along any lot line abutting a street, "grade" means the elevation at the center line of the street. Along any lot line not abutting a street, "grade" means ground elevation at the property line. Such structures shall conform to any corner sight distance requirement. An underground parking structure may encroach upon any area set aside for the buffer, screening, or other planting requirements, so long as there is at least four (4) feet of soil between the above ground surface and the top of the underground parking structure.

- d. Parking structures shall be monitored with a commercial security service at all times, provided at the sole expense of the parking structure owner or operator.

**Pet Grooming.** A commercial use dedicated to the grooming of dogs and cats, and may include accessory animal pens for the incidental holding of animals; provided, however, that no overnight boarding and any other activity normally associated with a **Kenel**, such as the breeding, boarding, training or selling of animals, shall be permitted.

**Professional Service Business.** Such use shall include businesses which typically offer service in conjunction with the sale of goods. Such uses differ from retail or office business in that the customer area is usually separated from the service area, and some form of laboratory, fabrication area or processing area is necessary. Such use includes but is not limited to dry cleaning, shoe repair, tailor, photography studio, copying service, eyeglass labs, and other similar uses, unless otherwise provide for in another district.

**Recreation, Indoor.** An indoor facility designed to accommodate sports, games, or other recreational, entertainment or amusement activities including, but not limited to, bowling, ice skating, roller skating, roller blading, skateboarding, roller ball, laser tag, escape rooms, and the like.

**Research and Development Laboratory.** An establishment engaged in investigation in the natural, physical, or social sciences, but which may include engineering and product development.

**Restaurant, Sit-Down.** An establishment, or other retail use, or portion thereof, where food or beverages are sold for direct consumption on the premises to persons seated within the building when licensed. This shall include coffee shops, tea rooms, and other substantially similar dine-in establishments that meet this definition.

- a. Eating and drinking establishments preparing, assembling or dispensing food or drink primarily for take-out or consumption off-premises; or eating and drinking establishments with less than 20% of their gross leasable floor area devoted to seating shall be classified as **Restaurant, Take-Out, or Prepared Food Shop**.
- b. Brewpubs shall comply with all the requirements of restaurants, and not taverns/bars, as defined herein, and shall be permitted to operate a **Microbrewery/Microdistillery/Microwinery/Nanobrewery** as an accessory use to a restaurant, only when the following conditions are met.
  - i. The area used for brewing, distilling, fermenting, bottling, and kegging shall not exceed 30% of the total gross leasable floor area.
  - ii. No brewed, fermented or distilled beverage shall be sold wholesale or distributed by the manufacturing entity beyond what is sold on-site for either on- or off-premises consumption.
- c. If located adjoining a residential zoning district, odor control devices shall be installed to minimize food odor impacts.

**Restaurant, Take-Out, or Prepared Food Shop.** Such use shall include shops dedicated to the retail sale of foods which are prepared, assembled or dispensed on the premises, primarily for take-out or consumption off-premises; and which may customarily also provide sit-down service, provided the sit-down service is incidental to the take-out function and does not occupy more than 20% of the gross leasable floor area of the use. Such requirement is necessary to distinguish this use from sit-down restaurant service. Such facilities containing outdoor seating areas shall also satisfy the conditions for Outdoor Dining Areas.

**Retail Shop.** A small shop or store where the single principal use of the premises is the retail sale of consumer goods and merchandise for use, entertainment, comfort or aesthetics, and whose market draw is considered as largely local in scope or services.

- a. There shall be no outdoor display or storage unless permitted by district regulations.
- b. The making or selling of cooked food shall not be permitted as an accessory use.
- c. More than one business enterprise is permitted on the premises or lot, provided that each enterprise has direct building access, physical separation between enterprises, and entrances for each enterprise facing the street (more than one enterprise may be permitted as a part of a **Mixed Use Building**).
- d. The gross leasable floor area devoted to retail use and storage is less than 10,000 square feet.

**Studio Training for Dance, Art, Music, Photography, Yoga, Martial Arts, or Similar Arts.** A use for individual and group instruction and training in the crafts and arts, which may include but is not limited to dance, visual or performing arts, yoga, martial arts, photography and the processing of photographs produced only by users of the studio facilities.

**Sundries, Pharmaceuticals, and Convenience Sales (Pharmacy).** A retail store use that sells or otherwise provides goods for personal grooming and for the day-to-day maintenance of personal health and well-being.

**Tavern/Bar.** Any premises licensed by the Pennsylvania Liquor Control Board wherein alcoholic beverages are served or sold at retail for consumption on the premises, of which the principal business is the sale of such beverages, and where the sale of such beverages comprises at least 75% or more of gross receipts. No such use shall be located within 500 feet of a similar use, nor within 500 feet of a church or school.

**Theater, Movie.** A building, structure, or use, primarily designed for the showing of on-screen films, movies, or videos, with one (1) or more theater screens for viewing. The following standards shall apply to proposed theaters containing three (3) or more theater screens:

- a. Theaters containing more than two (2) screens and located within shopping centers or lifestyle centers are not permitted shared parking provisions.



- b. Theaters containing more than two (2) screens shall provide pedestrian stacking room on sidewalk areas located directly adjacent to the building or showbox entrance, sufficient to contain 50 persons per theater or screen, in single-file lanes. Pedestrian stacking lanes shall be positively separated from vehicular traffic flow areas.
- c. All exit points from the theater shall be lighted at night, and exit areas shall have at least two (2) directions of travel which lead directly to the parking areas.
- d. The front or showbox entrance shall have a lay-by area sufficient to stack at least one (1) car per screen, which is independent of vehicle access flow.
- e. Submission of appropriate community impact statements, security provisions, and traffic impact studies are required.

**Theater, Performing.** An indoor facility, theater or auditorium, or other building or structure designed, intended, or used primarily for dance, dramatic, oratorical, musical, or other live performance purposes.

- 3. Permitted Uses. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other, subject to the standards herein contained in this Chapter.
  - a. Art Gallery.
  - b. Artist (Individual) Studios and Artisan Industrial.
  - c. Bank and Financial Institutions.
  - d. Commercial or Trade School.
  - e. Dwelling – Multifamily Unit (permitted only as a part of a Mixed Use Building).
  - f. Grocery Store or Supermarket.
  - g. Health and Fitness Center.
  - h. Hotel/Motel.
  - i. Library or Museum.
  - j. Mixed-Use Building.

- k. Office – Business.
  - l. Office – General.
  - m. Office – Municipal or Governmental.
  - n. Office – Professional.
  - o. Open-air Markets.
  - p. Personal Care Business – A.
  - q. Professional Service Business.
  - r. Recreation, Indoor.
  - s. Research and Development Laboratory.
  - t. Restaurant, Sit-Down.
  - u. Restaurant, Take-Out, and Prepared Foods Shop.
  - v. Retail Shop.
  - w. Studio Training for Dance, Art, Music, Photography, Yoga, Martial Arts, or Similar Arts.
  - x. Sundries, Pharmaceuticals, and Convenience Sales (Pharmacy).
  - y. Tavern/Bar.
  - z. Theater, Movie.
  - aa. Theater, Performing.
4. Conditional Uses. The following uses are permitted only by Conditional Use approval, pursuant to Sections 400-401.
- a. Child care facility, including Family Day Care Home, Group Day Care Home, or Day Care Center.
  - b. Neighborhood convenience store.
  - c. Parking structure, non-accessory.

- d. Parking lot, nonaccessory; provided that the use shall not be located on a lot which having frontage on High Street between York and Evans Street, Hanover Street between the Norfolk Southern tracks and Buttonwood Alley, Charlotte Street between the Norfolk Southern tracks and Buttonwood Alley.
  - e. Utility company operational facility.
  - f. Uses of the same general character as those listed in this chart, with the same or lesser impact on the community as determined by Borough Council, provided such use is not already defined or meets another definition in §1400 therein, and provided such use is not already permitted in another zoning district.
5. Accessory Uses. The following accessory uses, but no others, are permitted in this district.
- a. Garage – Private.
  - b. Greenhouse.
  - c. Home Occupation, Major.
  - d. Home Occupation, No Impact.
  - e. Microbrewery/Microdistiller/Microwinery/Nanobrewery, but only as part of a Restaurant, Sit-Down.
  - f. Municipal or Civic Accessory Use/Structure.
  - g. Outdoor Dining Area.
  - h. Parking Lot.
  - i. Parking Structure.
  - j. Pet Grooming.
  - k. Solar Energy Equipment.
  - l. Storage Shed.

**SECTION 2.** Section 319, Traditional Town Neighborhood (Conservation), of Part 3, Districts, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to permit Massage Therapy Center as a conditional use.

**SECTION 3.** Section 332, Neighborhood Business (Gateway), of Part 3, Districts, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to permit Massage Therapy Center as a conditional use.

**SECTION 4.** Section 334, Gateway East and Gateway West (Gateway), of Part 3, Districts, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to permit Massage Therapy Center as a conditional use, and also allow Check Cashing; Fortune Telling; Pawnshop; Payday Lender; Home Medical Supplies Retail Store; and Personal Care - B as permitted uses on parcels adjacent to W. High from 225 and 619 W. High Street. Home Medical Supplies Retail Stores are permitted use in Gateway East.

**SECTION 5.** Section 336, Flex Office (Contemporary), of Part 3, Districts, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to allow Outdoor Storage and Wholesale Facility as permitted uses.

**SECTION 6.** Section 337, Highway Business (Contemporary), of Part 3, Districts, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to allow Home Medical and Supplies Retail Store and Personal Care – B as permitted uses.

**SECTION 7.** Section 338, Heavy Manufacturing (Contemporary), of Part 3, Districts, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to allow Outdoor Storage and Wholesale Facility as permitted uses.

**SECTION 8.** Section 401(9), Drive-Through Windows as an Accessory Use, of Part 4, Conditional Uses, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended deleted and replaced with the following:

- A. A drive-through service window may be approved as part of a project that will make an existing building or lot more compatible with the appearance and character of Pottstown's traditional neighborhoods and downtown regarding:
  - 1. Form, either horizontal or vertical.
  - 2. Base, body, and cap.
  - 3. Scale.
  - 4. Texture and pattern of exterior materials.
  - 5. Proportion of walls to openings.
- B. There shall be sufficient stacking space for eight (8) vehicles, per drive-through.
- C. The stacking area shall not interfere with required parking spaces or vehicular aisles.
- D. Ingress to the drive-through facility shall occur from an aisleway within the interior circulation of the lot, and not directly from a principal or minor arterial highway.
- E. A clearly marked crosswalk located from the entryway(s) to the parking lot situated perpendicular to the drive-through stacking lane that, in addition to paint, is in a physical form sufficient to alert drivers of potential pedestrian/vehicle conflicts.

- F. A drive-through facility shall not be located within the front yard area.
- G. Drive-Through Windows shall not be permitted in the Downtown District.

**SECTION 9.** Section 401(29)(A), Open-Air Markets, of Part 4, Conditional Uses, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to read as follows:

- A. Except for the Downtown District, in all zoning districts that permit retail uses, an open-air market may be permitted as a conditional use. As part of the conditional use submission, the applicant shall include the following:
  - (1) A plan depicting the layout of the site, including dimensions of sales area, accessways, parking areas, and location of trash receptacles.
  - (2) The specific days and hours of operation.
  - (3) The means, such as stalls, tables or other structures, by which merchandise is to be displayed.

**SECTION 10.** The following shall be added to Section 401, Conditional Uses, of Part 4, Conditional Uses, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance:

Massage Therapy Center.

- A. All persons providing massage therapy services shall have obtained all necessary licenses required by the Commonwealth of Pennsylvania pursuant to the Pennsylvania Massage Therapy Law, 63 P.S. § 627.1. If unlicensed individuals are determined to be providing services, any conditional use approval previously granted shall become void.
- B. The premises must comply with applicable ordinances of the Borough, including, but not limited to, the building, fire prevention and zoning ordinances of the Borough.

- C. Treatment rooms shall be at least 50 square feet of floor area and shall maintain a light level of no less than 20 footcandles as metered at three feet above the surface of the floor (for illustrative purposes only, such light level is equivalent to light from a single forty-watt fluorescent lightbulb in the fifty-square-foot room). Such rooms shall contain a door incapable of being locked from either the exterior or the interior.
- D. Therapies may commence operation no earlier than 7:00 a.m. and extend no later than 10:00 p.m.
- E. A massage therapy center shall prominently and publicly display its license on the premises, and each massage therapists' license shall be available for inspection. Price rates charged for any and all services shall be prominently posted in the reception area in a location available for view, and no charges may be made other than in accordance with such posted rates.
- F. No person under the age of 18 shall be permitted to enter or remain on the premises or receive any massage.
- G. The owner or licensee or duly authorized manager shall be on duty at all times during the hours such establishment is open for business, such owner, licensee or manager shall be identifiable by prominently wearing an identification badge to that affect.
- H. Eating or drinking shall not be permitted on the premises, including, but not limited to, the serving, either for sale or otherwise, or the possession of any alcoholic beverages.
- I. Animals, except for service animals for the handicapped, shall not be permitted within massage therapy centers.

**SECTION 11.** Part 5, General Regulations, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to create a new Section 508, Outdoor Storage, as follows:

Outdoor Storage.

- A. No part of a public right-of-way, buffer area, required front yards, storm water management systems, or parking spaces shall be used for outdoor storage.

- B. Where permitted, outdoor accessory storage areas shall occupy an area of a lot which is less than 25% of the ground floor area of the principal building or structure on the same lot.
- C. Outdoor storage area shall be shielded from public view and adjoining properties on ground level by fencing, walls, and high intensity landscaping sufficient to screen the storage area.
- D. Outdoor storage area shall not be located closer than 15 feet to any side or rear property line, nor 15 feet from any structure or lot.

**SECTION 12.** Section 507, Accessory Uses, of Part 5, General Regulations, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to add the following:

Outdoor Dining Area.

- A. An Outdoor Dining Area requires a valid permit issued by the Borough. The permit shall be conspicuously displayed for the benefit of the patrons at all times within the establishment.
- B. The dining area shall be directly in front of or adjoining a street-level establishment.
- C. The dining area shall be maintained at the same elevation as the existing sidewalk surface.
- D. The dining area shall not infringe or encroach on the minimum number of off-street parking spaces or, in the event of shared parking facilities, further reduce available parking.
- E. The dining area may be physically separated along its parameter from the public or parking areas by a railing, fence, planting boxes, a combination thereof, or some other means having the same effect. Collapsible or removable railing or fencing shall only be permitted where the ground receptacle can be capped; and the anchors cannot exceed a depth below grade of the sidewalk of four (4) inches. Any collapsible railing or fencing shall be removed during periods of the year when the area is not in use. No partition shall create a safety risk (e.g., tripping hazard).
- F. The dining area shall be set back at least ten (10) feet from all driveways and internal vehicle circulation lanes.



- G. No part of the dining area shall be within fifteen (15) feet of a transit stop.
- H. The dining area shall not infringe or encroach upon the clear egress space between any exit door of the structure and the clear sidewalk space.
- I. The dining area shall not cover ventilation grates, and ventilation grates shall not be considered clear walk space.
- J. Dining areas located at street intersections shall provide corner clearance by providing a ten (10) foot clear space from the point of tangency of the curb line.
- K. Nonconforming Uses are prohibited from operating an Outdoor Dining Area.

**SECTION 13.** Section 1400, Definitions, of Part 14, Definitions, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance, is hereby amended to add the following definitions:

**Check Cashing Establishment.** An establishment that (1) is not a bank or financial institution subject to federal or state regulation; and (2) that charges either a flat fee or a fee based on a percentage of the face value of a check to be cashed or processed by such establishment; and (3) provides such services to the public.

**Drive-through Facility.** Any building, design, facility, or structure, or portion thereof, from which a business, product or service is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during the transaction.

**Fortune Telling Establishments.** A person or establishment engaged in or that professes to foretell future or past events, engaged in the practice of palmistry (the art or practice of reading a person's character or future from the lines on the palms of hands), or professes to mediate communication between spirits of the dead and living human beings.

**Home Medical Supplies Retail Store:** A retail store use principally devoted to the sale of non-pharmaceutical medical supplies or equipment, also known as durable medical equipment (DME), to the direct consumer or end-user. Such medical supplies or equipment can include, but are not limited to, canes, walkers, oxygen equipment and accessories, commode chairs, hearing aids, manual wheelchairs and power mobility devices.

**Massage Therapy.** Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with hands or with the aid of any mechanical or electrical apparatus, with or without such supplementing aids as rubbing alcohol, liniments or other similar preparations commonly used in this practice. The term does not include the diagnosis or treatment of impairment, illness, disease, or disability, a medical procedure, a chiropractic manipulation - adjustment, physical therapy mobilization - manual therapy, therapeutic exercise, electrical stimulation, ultrasound, or prescription of medicines for which a license to practice medicine, chiropractic, physical therapy, occupational therapy, podiatry or other practice of the healing arts is required or any other area licensed by the Commonwealth of Pennsylvania.

**Massage Therapy Center:** Any establishment where the primary use is the administration of massage therapy for the payment of a fee or other compensation or consideration, but not including: a hospital; nursing home; medical clinic; the office of a physician, surgeon, physical therapist, chiropractor, or osteopath currently licensed as such by the Commonwealth of Pennsylvania; barbershops or practices licensed by the Department of Cosmetology; or any athletic program of accredited junior and senior high schools or colleges in which a massage is administered by a trainer within the scope of such athletic program

**Outdoor Storage:** The keeping of inventory, stock, material, merchandise, finished products, vehicles, or goods in any location, except within an entirely enclosed building, for more than 24 hours.

**Pawnshop.** An establishment that is engaged to any extent in any of the following business or activities:

- A. The lending of money on the deposit or pledge of personal property, other than chosen in action, securities or written evidence of indebtedness;
- B. The purchase of personal property either from an individual, another pawn business or any other business with an expressed or implied agreement or understanding to offer the property for sale to the public, and if that sale is unsuccessful, then to sell it back to the previous owner at a subsequent time at a stipulated price or negotiated price;

- C. The purchase of precious metals with the intent to melt down, provided that such activity is not clearly incidental to the principal use of the establishment; or
- D. The lending of money upon personal property, goods, wares, or merchandise pledge, stored or deposited as collateral security.

**Payday Lender.** Any person or entity that is substantially in the business of negotiating, arranging, aiding, or assisting a consumer in procuring payday loans. Payday loans are defined as short-term cash advances of \$3,000 or less that are secured or facilitated by a consumer's personal check that is held for future deposit or by electronic access to the consumer's bank account. The term includes any form of such lending, notwithstanding the presence of some other element introduced to disguise the true nature of the transaction, such as the sale or provision of a good, service, or commodity incidental to the advance of funds, and notwithstanding the fact that the transaction is conducted in person, by mail, Internet, telephone, or through any other means. The term shall not include loans made by the customer's employer or an agent of that employer, or by a federally-or Commonwealth-chartered bank, thrift, or credit union.

**Personal Care Business Uses.** A personal care business requires direct, physical contact with the customer in the performance of a personal service. Such uses generally but do not always require a license from one of the Boards and Commissions under the auspices of the Commonwealth Department of State's Bureau of Professional and Occupational Affairs. Individual personal care businesses shall be categorized and permitted according to the following sub-categories:

- A. **Personal Care Business - A:** Uses which are regulated under the State Boards of Cosmetology and Barber Examiners, which include barbers, beauticians, cosmetologists, nail manicurists, and estheticians.
- B. **Personal Care Business - B:** Uses which include the performing of any of the following procedures: body piercing, tattooing, cosmetic tattooing, branding, or scarification. This definition does not include practices that are considered medical procedures by the Pennsylvania Medical Board.

**Wholesale Facility.** A facility or entity that acquires large quantities of goods from manufacturers or vendors, and resells such goods principally to retailers or supply companies, rather than directly to the consumer or end-user of such products. However, such uses may include incidental retail sale

**SECTION 14. Severability.** If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any part of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the Burgess and Town Council of the Borough of Pottstown that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof, had not been included herein.

**SECTION 15. Reenactment.** All other parts of Chapter 27, Zoning, of the Pottstown Borough Zoning Ordinance, of the Code of Ordinances of the Borough of Pottstown, as amended, also known as the Pottstown Borough Zoning Ordinance; and Chapter are hereby re-enacted and reordained and shall remain in effect as previously adopted.

**SECTION 16. Effective Date.** This ordinance shall become effective immediately upon enactment.

**ENACTED** and **ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2019.

**THE BURGESS AND TOWN COUNCIL  
OF THE BOROUGH OF POTTSTOWN**

BY: \_\_\_\_\_  
Dan Weand, President

ATTEST: \_\_\_\_\_  
Virginia L. Takach, Secretary

Approved this \_\_\_\_ day of  
\_\_\_\_\_, A.D., 2019.

\_\_\_\_\_  
Stephanie Henrick, Mayor