

ORDINANCE NO. 2017-15

**ORDINANCE OF THE BOROUGH OF BERLIN, COUNTY OF CAMDEN,
AND STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE CODE OF
THE BOROUGH OF BERLIN TO CODIFY AND IMPLEMENT THE PROVISIONS OF
THE JANUARY 12, 2017 HOUSING ELEMENT AND FAIR SHARE PLAN AND THE
JUNE 28, 2017 LAND USE ELEMENT OF THE MASTER PLAN AND TO SATISFY
OTHER LEGAL REQUIREMENTS ASSOCIATED THEREWITH**

WHEREAS, the Mayor and Council of the Borough of Berlin, County of Camden, and State of New Jersey (the "Borough"), have reviewed the Housing Element and Fair Share Plan of the Borough Master Plan as prepared by CME Associates dated January 12, 2017 which was previously approved by the Planning Board of the Borough and endorsed by the Borough and have also reviewed the Land Use Element of the Master Plan as prepared by CME Associates dated June 28, 2017 and adopted by the Planning Board on July 10, 2017 ("hereinafter collectively, "Borough Master Plan"); and

WHEREAS, the Mayor and Borough Council are empowered by law to implement the Borough Master Plan through the adoption of ordinances; and

WHEREAS, the Mayor and Borough Council have deemed it in the best interest of the public health, safety and welfare to implement the Borough Master Plan; and

WHEREAS, in order to facilitate the consistency of the Berlin Borough Master Plan with the Code of the Borough of Berlin, the Governing Body desires to codify and implement certain recommendations contained in the Berlin Borough Master Plan; and

WHEREAS, this Ordinance was referred to the Planning Board of the Borough of Berlin pursuant to the New Jersey Municipal Land Use Law; and

WHEREAS, the Planning Board of the Borough of Berlin has recommended adoption of this Ordinance and has determined that it is consistent with the Berlin Borough Master Plan.

NOW, THEREFORE, be it Ordained by the Mayor and the Borough Council of the Borough of Berlin, County of Camden, State of New Jersey, that the Code of the Borough of Berlin be supplemented and amended as follows:

SECTION 1: The properties designated in sections A-F below shall be and hereby are re-designated from the existing zoning district to a different zoning district in the manner described below. The location and boundaries of said zoning districts as set forth herein shall be as shown on a revised zoning map to be prepared and adopted in accordance herewith, which shall be kept on file in the office of the Borough Clerk. The zoning district amendments are and shall be as follows:

- (A) The following properties, identified by block and lot, which are currently located within the C-2 Neighborhood Commercial District, are hereby rezoned and/or re-designated to the R-1a Medium Density Residential District:

- (1) Block 2201.01, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 & 55
 - (2) Block 2201.02, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 & 21;
 - (3) Block 2501, Lots 21, 22, 23, 24, 25, 26 & 27
 - (4) Block 2507, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 & 12
- (B) The following properties, identified by block and lot, which are currently located within the R-2 High Density Residential District, are hereby rezoned and/or re-designated to the R-1a Medium Density Residential District:
- (1) Block 2503, Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 & 37;
 - (2) Block 2504, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 & 35;
 - (3) Block 2507, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 & 13
- (C) The following properties, identified by block and lot, which are currently located within the I-3 Industrial District, are hereby rezoned and/or re-designated to the C-2 Neighborhood Commercial District:
- (1) Block 2201.01, Lot 42;
 - (2) Block 2406, Lots 26 & 27
 - (3) Block 2507 Lots 15, 16 & 17
- (D) The following properties, identified by block and lot, which are currently located within the R-2 High Density Residential District, are hereby rezoned and/or re-designated to the C-2 Neighborhood Commercial District:
- (1) Block 401, Lot 4; and
 - (2) Block 1003, Lots 3 & 4
- (E) The following properties, identified by block and lot, which are currently located within the Residential Low Density (R-1) District, are hereby rezoned and/or re-designated to the C-2 Neighborhood Commercial District:
- (1) Block 1300, Lot 1;
 - (2) Block 400, Lot 3.01
- (F) The following properties, identified by block and lot, which are currently located within the Residential Low Density (R-1) District, are hereby rezoned and/or re-designated to the Institutional (INST) District.
- (1) Block 400, Lot 3
- (G) The following properties, identified by block and lot, which are currently located within the I-3 Industrial District, are hereby rezoned and/or re-designated to the R-3 Residential District:
- (1) Block 2507, Lot 13

SECTION 2: Chapter 182, entitled "Gasoline Service Stations," Section 182-9, entitled "Location restrictions" is hereby modified, amended and/or supplemented by adding the words, "a place of worship."

SECTION 3: Chapter 282, entitled "Sound Trucks," Section 282-3, entitled "Operation regulations" is hereby modified, amended and/or supplemented by adding the words, "places of worship" in Subsection D.

SECTION 4: Chapter 335, entitled "Zoning and Land Use," Article II, entitled "Definitions," Section 335-2, entitled "Definitions and word usage" is hereby modified, amended and/or supplemented as follows:

- A. Add the words, "place of worship" in the definition of "BUILDING HEIGHT."
- B. Add "DISTILLERY"

A place or establishment where distilling, especially the distilling of liquors, is performed.”

C. Add “MICROBREWERY

A brewery that produces less than 15,000 barrels (hectoliters) of beer per year with 75 percent or more of its beer sold off-site. Microbreweries may sell to the public by one or more of the following methods: traditional three-tier system (brewery to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and, directly to the consumer through carry-outs and/or on-site tap-room or restaurant sales.”

D. Add “NANO-BREWERIES

Breweries that usually do not brew more than one batch at a time and can sometimes be referred to as a pico brewery, or bucket brewery, which distribute to a limited area and only make beer in very small quantities.”

E. Add “PERFORMING ARTS CENTER

A public or private space used to create and present various performing and visual arts. For the purposes of this definition, a Performing Arts Center shall also include educational and training uses associated with the various performing and visual arts.”

F. Add “PLACE(S) OF WORSHIP

A building or group of buildings, including customary accessory buildings designed or intended for public worship. For the purpose of this chapter “place of worship” shall include, but is not limited to, churches, chapels, congregations, cathedrals, synagogues, temples, as well as parish houses, convents and such accessory uses.”

G. Revise “YARD, FRONT

Open space extending across the full width of a lot between the front lot line and nearest line of the principal building or any enclosed portion thereof. The depth of such yard shall be the shortest horizontal distance between the front lot line and the nearest point of the building or any enclosed portion thereof.”

H. Revise “YARD, SIDE

Open space between the side lot line, the side street line, or the proposed side street line and the principal buildings, or any portion thereof, extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the principal building or any portion thereof.”

SECTION 5: Chapter 335, entitled “Zoning and Land Use,” Article V, entitled “Design and Performance Standards,” Section 335-61, entitled “Sidewalks” is hereby modified, amended and/or supplemented by adding the words, Sidewalks shall be required in all Zones within the Borough of Berlin, if none exist, when any improvements are proposed for a lot in said zones.”

SECTION 6: Chapter 335, entitled “Zoning and Land Use,” Article VI, entitled “Zoning Regulations,” Section 335-77, entitled “General zoning provisions” is hereby modified, amended and/or supplemented as follows:

- A. Add “Each business with an approved individual site plan with at least fifty feet (50’) of indigenous street frontage may have one (1) freestanding sign on each street

frontage for front yards only. The signs shall not be larger than one-half (1/2) square foot of sign per lineal front yard foot of the building with a maximum of one hundred fifty (150) square feet of an area shall be placed within the property lines of the premises to which they relate” to Subsection R (5) entitled, “Signs and other forms of advertising, Location.”

- B. Delete Subsection R (12) (a) entitled, “Freestanding signs,” and replace it with the following:

“(12) Commercial/industrial uses in nonresidential zoning districts.

- (a) Freestanding signs. In addition to any attached sign(s), one freestanding sign shall be permitted for each street frontage for any shopping center, office complex or other business or industrial development (off-site signs are not permitted). Each indigenous street frontage shall be a minimum of fifty feet to allow a freestanding sign, the freestanding signs are only permitted in front yards, and any business or industrial development shall have no more than two freestanding signs. The freestanding sign shall be constructed so that the sign is supported by a single pole, stanchion, beam or similar item (tripod or double pole supports are not permitted in order to reduce visual clutter).”

- C. R (15) (b) [1] entitled, “Central Business District signs, Permitted sign types, Freestanding sign,” add the words, “Two freestanding signs are permitted with lots having two front yard street frontages.”

SECTION 7: Chapter 335, entitled “Zoning and Land Use,” Article VI, entitled “Zoning Regulations,” Section 335-78, entitled “R-1 and PR-1 Low Density Residential Districts” is hereby modified, amended and/or supplemented by deleting the words “churches and other places of worship” in Subsection E (1) and replacing it with the words “Places of Worship.”

SECTION 8: Chapter 335, entitled “Zoning and Land Use,” Article VI, entitled “Zoning Regulations,” Section 335-78, entitled “R-1 and PR-1 Low Density Residential Districts” is hereby modified, amended and/or supplemented by changing “Minimum Front Yard” in the Schedule of Density, Bulk, and Yard Requirements in the R-1 and PR-1 Residential Districts to a front yard setback of thirty feet (30’) in Subsection F.

SECTION 9: Chapter 335, entitled “Zoning and Land Use,” Article VI, entitled “Zoning Regulations,” Section 335-79, entitled “R-1a Medium Density Residential District” is hereby modified, amended and/or supplemented by deleting the words “churches and other places of worship” in Subsection E (1) and replacing it with the words “Places of Worship.”

SECTION 10: Chapter 335, entitled “Zoning and Land Use,” Article VI, entitled “Zoning Regulations,” Section 335-80, entitled “R-2 and PR-2 High Density Residential Districts” is hereby modified, amended and/or supplemented by adding the words “places of worship” in Subsection A (1); adding the words, “(4) Places of worship” in Subsection B; and deleting the words in “churches and other places of worship” and replacing them with the words “Places of Worship” in Subsection E (1).

SECTION 11: Chapter 335, entitled “Zoning and Land Use,” Article VI, entitled “Zoning Regulations,” Section 335-82, entitled “C-1 Central Business District” is hereby modified, amended and/or supplemented as follows:

- A. Add the words, “sidewalk cafes” to Subsection B (6).
- B. Add “(12) Microbreweries and Nano-breweries, (13) Distilleries, (14) Performing Arts Center” in Subsection B.
- C. Add the following to Subsection C entitled “Permitted Accessory Uses:

“(5) Outdoor seating for food service and restaurant uses.

(a) Sidewalk cafes or restaurants with outdoor seating shall be permitted along sidewalks with a minimum of 10 feet measured between the property line and the curb with on-street parking. Sidewalk cafes that are located with adjacent traffic lanes must have a minimum of 15 feet measured between the property line and the curb. The outdoor seating area shall not extend past five feet into the sidewalk and shall leave a minimum of three feet of sidewalk between the outdoor seating space and the curb line to prevent inadequate pedestrian space. In addition, the outdoor seating must be ADA compliant. Sidewalk cafes also may be permitted on corner lots; however, the seating area shall not interfere with motorists' sight triangle or pedestrian crosswalk access. Outdoor seating areas shall only be permitted between the hours of 7am and 10pm. Sidewalk cafes may include additional fixtures other than tables and chairs such as umbrellas."

D. Add, "D (1) Public Art in public or private spaces are permitted on the condition it is reviewed by the Planning Board for approval" to Subsection D, entitled "Conditional Uses" and delete the word, ("Reserved.")

SECTION 12: Chapter 335, entitled "Zoning and Land Use," Article VI, entitled "Zoning Regulations," Section 335-83, entitled "C-2 and PC-2 Neighborhood Commercial District" is hereby modified, amended and/or supplemented as follows:

- A. Delete Subsection B (7) and replace it with "(7) Restaurants and sidewalk cafes. Restaurants with drive-up window service and sidewalk cafes shall be subject to the conditional use standards for these uses as specified below."
- B. Add "(13) Microbreweries and Nano-breweries; (14) Distilleries; (15) Performing Arts Center" to Subsection B.
- C. Add the following to Subsection D entitled "Conditional Uses:

"(2) Sidewalk cafes shall be permitted within shopping centers and along sidewalks along the pedestrian walkway with a minimum of 15 feet measured between the built-to-line and the parking lot and/or curblane. The outdoor seating must be ADA compliant. The outdoor seating area shall not extend past eight feet into the sidewalk and shall leave a minimum of three feet of sidewalk between the outdoor seating space and the curb line to prevent inadequate pedestrian space. Sidewalk cafes also may be permitted on corner lots; however, the seating area shall not interfere with motorists' sight triangle or pedestrian crosswalk access. Outdoor seating areas shall only be permitted between the hours of 7am and 10pm. Sidewalk cafes may include additional fixtures other than tables and chairs such as umbrellas."

SECTION 13: Chapter 335, entitled "Zoning and Land Use," Article VI, entitled "Zoning Regulations," Section 335-84, entitled "C-3 and PC-3 Highway Commercial District" is hereby modified, amended and/or supplemented as follows:

- A. Delete B (10) and replace it with the following, "(10) Restaurants, sidewalk cafes, bars, and nightclubs. Restaurants with drive-up window service and sidewalk cafes shall be subject to the conditional use standards for these uses as specified below.
- B. Add "(15) Microbreweries and Nano-breweries; (16) Distilleries; (17) Performing Arts Center" to Subsection B.

C. Add the following to Subsection D entitled, "Conditional Uses:

"(2) Sidewalk cafes shall be permitted within shopping centers and along sidewalks along the pedestrian walkway with a minimum of 15 feet measured between the built-to-line and the parking lot and/or curblin. The outdoor seating must be ADA compliant. The outdoor seating area shall not extend past eight feet into the sidewalk and shall leave a minimum of three feet of sidewalk between the outdoor seating space and the curb line to prevent inadequate pedestrian space. Sidewalk cafes also may be permitted on corner lots; however, the seating area shall not interfere with motorists' sight triangle or pedestrian crosswalk access. Outdoor seating areas shall only be permitted between the hours of 7am and 10pm. Sidewalk cafes may include additional fixtures other than tables and chairs such as umbrellas."

SECTION 14: Chapter 335, entitled "Zoning and Land Use," Article VI, entitled "Zoning Regulations," Section 335-88, entitled "INST Institutional District" is hereby modified, amended and/or supplemented by deleting the word "Churches" and adding "Places of Worship" in Subsection B (6) and adding the words "Places of Worship" in Subsection C (5).

SECTION 14: Chapter 335, entitled "Zoning and Land Use," Article VI, entitled "Zoning Regulations," is hereby modified, amended and/or supplemented by amending the Schedule of Minimum Off-Street Parking and Loading Spaces to add the following: "Microbreweries, Nano-breweries, and Distilleries (parking standards) – 1 parking space per 3 seats; Performing arts (parking standards) – 1 parking space per 4 seats."

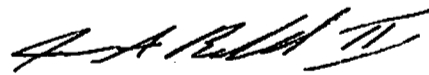
SECTION 15: Except as set forth in Sections 1-14 above, the balance of Chapters 182, 282 and 335 of the Code of the Borough of Berlin and the balance of the Tax Maps and Zoning Maps of the Borough of Berlin shall not be affected by this Ordinance.

SECTION 16: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 17: If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

SECTION 18: This Ordinance shall take effect immediately upon final passage and publication in accordance with law and approval from the New Jersey Pinelands Commission.

This is to certify that the foregoing Ordinance was adopted by the Borough Council at a regular meeting of the Borough of Berlin held on December 14, 2017.

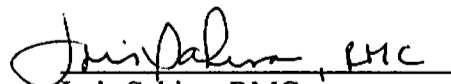


James Bilella, Mayor

ATTEST:


Lois Sahina, RMC
Borough Clerk

Certified to be a true copy of an Ordinance adopted by the Mayor and Borough Council of the Borough of Berlin at a regularly scheduled meeting on December 14, 2017 at the Berlin Borough Municipal Building.


Lois Sahina, RMC
Borough Clerk

Introduced: November 16, 2017

Adopted: December 14, 2017