

**ORDINANCE NO. 1165**

**AN EMERGENCY ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TEMPORARILY RELAX OR WAIVE CERTAIN PROVISIONS AND REQUIREMENTS OF THE CODE OF THE CITY OF CAMBRIDGE, INCLUDING THE UNIFIED DEVELOPMENT CODE, REGARDING PARKING, BULK AREA, SEATING, CAPACITY, SIDEWALKS, AND SIGNAGE, SUBJECT TO CERTAIN CONDITIONS; TO FACILITATE THE SAFE REOPENING AND OPERATION OF COMMERCE AND ACTIVITIES WITHIN THE CITY OF CAMBRIDGE IN ACCORD WITH STANDING GUBERNATORIAL EXECUTIVE ORDERS CONCERNING THE COVID-19 PANDEMIC; PROVIDING THAT THE TITLE OF THIS EMERGENCY ORDINANCE SHALL BE DEEMED A FAIR SUMMARY, AND GENERALLY RELATING TO THE TEMPORARY RELAXING OR WAIVING OF CERTAIN PROVISIONS AND REQUIREMENTS OF THE CODE OF THE CITY OF CAMBRIDGE.**

**WHEREAS**, pursuant to Md. Code Ann., Local Gov't § 5-202 and § 3-27(1) of the Charter of the City of Cambridge (the "Charter"), the Commissioners of Cambridge are authorized and empowered to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter as they may deem necessary for the good government of the City of Cambridge (the "City"); for the protection and preservation of the City's property, rights, and privileges; for the preservation of peace and good order; to secure persons and property from danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the City and visitors thereto and sojourners therein; and

**WHEREAS**, pursuant to Md. Code Ann., Local Gov't § 5-209(c) and §§ 3-27(32) and (50) of the Charter, the Commissioners of Cambridge are authorized and empowered to pass ordinances to protect and preserve the health of the City and its inhabitants, to prevent the introduction of contagious diseases into the City, and to authorize the removal and confinement of persons having contagious or infectious diseases, subject to the powers and duties of the State Department of Health and Mental Hygiene, the County Board of Health, or any public general or local law relating to the subject of health, and to establish quarantine regulations in the interests of public health; and

**WHEREAS**, pursuant to § 3-27(35) of the Charter, the Commissioners of Cambridge are authorized and empowered to license and regulate any business, occupation, trade, calling, or place of amusement and in general may require permits or licenses to be obtained where necessary for regulatory purposes in the interest of the public health, safety, or morals; and

**WHEREAS**, on April 15, 2020, the Governor of Maryland issued Executive Order No. 20-04-15-01, entitled "Requiring Use of Face Coverings Under Certain Circumstances and Requiring Implementation of Certain Physical Distancing Measures" (the "April 15<sup>th</sup> Executive Order"), which, in part, requires the use of Face Coverings on public transportation and in Retail Establishments and Foodservice Establishments and implements physical distancing measures for Retail Establishments; and

**WHEREAS**, on May 13, 2020, the Governor of Maryland issued Executive Order No. 20-05-13-01, entitled “Amending and Restating the Order of May 6, 2020, Allowing Reopening of Certain Businesses and Facilities, Subject to Local Regulations” (the “May 13<sup>th</sup> Executive Order”), which, in part, authorized the reopening of certain businesses, organizations, establishments, and facilities at 5:00 p.m. on May 15, 2020, subject to certain conditions and in compliance with orders of political subdivisions; and

**WHEREAS**, on May 27, 2020, the Governor of Maryland issued Executive Order No. 20-05-27-01, entitled “Amending and Restating the Order of May 13, 2020, Allowing Reopening of Certain Businesses and Facilities, Subject to Local Regulation” (the “May 27<sup>th</sup> Executive Order”), which amended the May 13<sup>th</sup> Executive Order, in part, by authorizing restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises (“Foodservice Establishments”) and social and fraternal clubs with dining facilities (“Clubs”) to serve food and beverages to customers for consumption in outdoor seating areas beginning at 5:00 p.m. on May 29, 2020, subject to certain conditions and in compliance with orders of political subdivisions; and

**WHEREAS**, pursuant to §§ 1-15(u)(6) and (7) of the City Code, emergency ordinances may be introduced and acted upon at the same meeting and may take effect immediately; provided, however, that the affirmative votes of at least four members of the City Council shall be required for the final passage of an emergency ordinance; and

**WHEREAS**, the Commissioners of Cambridge are desirous of assisting those businesses, organizations, establishments, facilities, Foodservice Establishments, and Clubs in the City that may reopen and serve food and beverages for consumption in outdoor seating areas pursuant to the May 27<sup>th</sup> Executive Order to do so in a manner that will permit them to operate as efficiently as possible while preventing the spread of COVID-19 in the City and otherwise protecting the public health, safety, and welfare; and

**WHEREAS**, the Commissioners of Cambridge deem the temporary relaxation or waiver of certain provisions and requirements of the Code of the City of Cambridge (the “City Code”), including the City’s Unified Development Code (the “UDC”), as set forth in this Emergency Ordinance necessary and appropriate to facilitate the effective operation of those businesses, organizations, establishments, facilities, Foodservice Establishments, and Clubs in the City that may reopen and serve food and beverages for consumption in outdoor seating areas pursuant to the May 27<sup>th</sup> Executive Order while preventing the spread of COVID-19 in the City and otherwise protecting the public health, safety, and welfare; and

**WHEREAS**, the Commissioners of Cambridge strongly encourage the wearing of Face Coverings and adherence to the physical distancing measures as set forth in the April 15<sup>th</sup> Executive Order to the maximum extent practicable, as a matter of personal responsibility and respect for others as well as a matter of public health, safety, and welfare; and

**WHEREAS**, the Commissioners of Cambridge, for the good and welfare of the community, deem it necessary and appropriate to pass this Ordinance as an Emergency Ordinance for the purpose of enabling those businesses, organizations, establishments, facilities, Foodservice Establishments, and Clubs in the City that may reopen and serve food and beverages for

consumption in outdoor seating areas pursuant to the May 27<sup>th</sup> Executive Order that would not otherwise be able to reopen or operate as effectively as possible but for the temporary relaxing or waiving certain provisions and requirements of the City Code as set forth herein to do so without delay, thus affording such businesses, organizations, establishments, facilities, Foodservice Establishments, and Clubs the opportunity to remain viable and contribute to the City's economic recovery from the COVID-19 pandemic.

**NOW, THEREFORE, BE IT ORDAINED** by the Commissioners of Cambridge, that:

**SECTION 1.**

1. **Authority.** Subject to the limitations set forth in Paragraph 2 herein, the City Manager or his designee is authorized to issue a permit temporarily relaxing or waiving certain provisions and requirements of the City Code, including the UDC, regarding the following:

- a. Parking;
- b. Bulk area and land usage;
- c. Seating;
- d. Capacity;
- e. Sidewalks; and
- f. Signage.

2. **Limitations and Conflicts.**

a. Any permit temporarily relaxing or waiving any provision or requirement set forth in Paragraphs 1(a) through (f) herein shall be subject to, and comply with, the following:

- i. Prior consultation with, and any directives or orders issued by, the Dorchester County Department of Health;
- ii. The provisions of any Executive Order of the Governor of Maryland related to the COVID-19 pandemic;
- iii. Applicable directives of the Maryland Secretary of Health;
- iv. Applicable social distancing guidance published by the Centers for Disease Control and the Maryland Department of Health;
- v. Applicable federal, State, and Dorchester County permits and licenses; and

vi. Any conditions or limitations that the Commissioners of Cambridge or City Manager may require.

b. The Commissioners of Cambridge may adopt by resolution policies and procedures to assist the City Manager or his designee in reviewing and approving permit applications hereunder.

c. In the event of a conflict between any permit issued hereunder and any provision of Paragraphs 2(a) and/or (b) above, the latter shall be deemed to control.

3. **Eligibility.** Only those businesses, organizations, establishments, facilities, Foodservice Establishments, and Clubs that are permitted to reopen or serve food and beverages for consumption in outdoor seating areas under the May 27<sup>th</sup> Executive Order, as may be amended, are eligible to apply for a permit temporarily relaxing or waiving any provision or requirement set forth in Sections 1(a) through (f) herein.

4. **Face Coverings.**

a. Any business, organization, establishment, or facility in the Town whose customers, visitors, and/or staff are not required to wear a Face Covering (as defined in the April 15<sup>th</sup> Executive Order, as may be amended) under any Executive Order of the Governor of Maryland is nonetheless required to enforce the wearing of Face Coverings for all customers and visitors over the age of two and all staff as specified in the April 15<sup>th</sup> Executive Order. Any business, organization, establishment, or facility requiring the wearing of Face Coverings shall post signage at each entrance providing notice of such requirement.

b. Pursuant to the May 27<sup>th</sup> Executive Order, Foodservice Establishments and Clubs shall require all staff to wear a Face Covering, as defined in the Governor of Maryland's April 15<sup>th</sup> Executive Order, as may be amended.

5. **Physical Distancing.**

a. Any business, organization, establishment, or facility not required to comply with the physical distancing measures set forth in the April 15<sup>th</sup> Executive Order, as may be amended, is nonetheless required to comply with such measures to the maximum extent practicable. When outdoors and in public spaces, all persons are expected to maintain the minimum six-foot physical distancing recommended in the April 15<sup>th</sup> Executive Order and to wear face coverings when and where such physical separation is impracticable and/or unsustainable.

b. Pursuant to the May 27<sup>th</sup> Executive Order, Foodservice Establishments and Clubs shall ensure patrons are seated at least six (6) feet away from each other, except for households seated together, and not allow groups larger than six (6) individuals, except for members of the same household.

6. **Expiration and Revocation.**

a. All permits issued hereunder shall expire immediately upon the expiration of the May 27<sup>th</sup> Executive Order, as may be amended. The holder of any permit issued hereunder shall then have 48 hours to become compliant with the provision(s) or requirement(s) of the City Code that was temporarily relaxed or waived.

b. The City Manager and/or the Commissioners of Cambridge may revoke a permit issued hereunder where the business, organization, establishment, facility, Foodservice Establishment, or Club to which the permit has been issued fails to comply with any of the provisions of this Emergency Ordinance or when, in the discretion of the City Manager and/or the Commissioners of Cambridge, such revocation is necessary to protect the public health, safety, and welfare.

7. **Further Amendments.** This Emergency Ordinance may be revised or amended from time to time as needed in the discretion of the Commissioners of Cambridge.

**SECTION 2.** The recitals to this Emergency Ordinance are incorporated herein and deemed a substantive part hereof.

**SECTION 3.** If any section, subsection, sentence, clause, phrase, or portion of this Emergency Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Emergency Ordinance, it being the intent of the Commissioners of Cambridge that this Emergency Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

**SECTION 4.** All ordinances or parts of ordinances inconsistent with the provisions of this Emergency Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 5.** The title of this Emergency Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

**AND BE IT FURTHER** enacted and ordained that this Emergency Ordinance shall become effective immediately upon passage.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

\_\_\_\_\_  
Patrick C. Comiskey, City Manager

By: \_\_\_\_\_  
Victoria Jackson-Stanley, Mayor

**Introduced the 8<sup>th</sup> day of June, 2020  
Passed the 8<sup>th</sup> day of June, 2020  
Effective the 8<sup>th</sup> day of June, 2020**