

CITY OF ATLANTIC CITY
MAYOR'S EXECUTIVE ORDER NO. 3 of 2020
AUTHORIZING THE CONSUMPTION OF ALCOHOLIC BEVERAGE
IN CERTAIN AREAS OF THE BOARDWALK
AND OTHER OPEN CONTAINER ZONES

WHEREAS, the Governor issued Executive Order Nos. 103, 119 and 138, the facts and circumstances of which are adopted by reference herein, declaring both a Public Health Emergency and a State of Emergency throughout the State due to the public hazard posed by the Coronavirus disease 2019 (COVID-19); and

WHEREAS, to further protect the health, safety and welfare of New Jersey residents by reducing the rate of community spread of COVID-19, the Governor issued Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-148 (2020), (and as amended), the facts and circumstances of which are adopted by reference herein, to establish enhanced social mitigation strategies for combating COVID-19; and

WHEREAS, the Atlantic City Boardwalk, Tennessee Avenue, New York Avenue and St. James Place between Pacific Avenue and the Boardwalk (the Orange Loop), Gardner's Basin and other areas of the Tourism District have long been hubs of entertainment in the City and there are a number of food and beverage establishments in those areas for the public to enjoy; and

WHEREAS, the Governor has recently lifted restrictions on the ability of individuals to avail themselves of certain public places, including the Atlantic City Boardwalk area; and

WHEREAS, the New Jersey Legislature has recently promulgated legislation allowing the holder of retail plenary licenses to sell alcoholic beverages to individual consumers in sealed containers of 16 ounces or less; and

WHEREAS, under the current state of emergency, the City of Atlantic City is seeking to provide additional opportunities for and to encourage social distancing by permitting patrons of the food and beverage establishments along the Boardwalk and in Gardner's Basin (which may be further defined) to walk in public areas with open containers of alcoholic beverages; and

WHEREAS, those open container areas would help both tourists and local area residents safely enjoy the open spaces and food and beverage experiences that Atlantic City has to offer; and would be consistent with the intent of the new legislation allowing consumers to purchase alcohol for individual consumption; and

WHEREAS, Governor Murphy's Executive Order No. 103, paragraph 12, allows for a municipality to act consistent with the promotion of social distancing measures, Chapter 79. Alcoholic Beverages, Article II. General Restrictions, Section 79-20. Prohibited Acts. A. (1) of the Code of the City of Atlantic City shall be superseded to the extent authorized by this Executive Order; and

WHEREAS, in addition to the Boardwalk and Gardner's Basin, the City of Atlantic City may provide for other controlled environments to allow patrons to walk with open containers should the initial designated areas proceed without occurrence or reasons to curtail open containers.

NOW, THEREFORE, pursuant to N.J.S.A. 40:69A-1, et seq., the Optional Municipal Charter Law and the executive power of the Municipality **I, MARTY SMALL, SR, MAYOR** of the City of Atlantic City, New Jersey, by virtue of the authority vested in me by the constitution and statutes of the State of New Jersey, do hereby **ORDER, PROCLAIM AND DIRECT that the consumption of alcoholic beverages shall be permitted under the conditions below in Open Container Zones (as defined herein) in the City of Atlantic City during the effective period of this Executive Order No. 3:**

A. Open Container Zones shall be defined as:

1. On the Boardwalk between Sovereign Avenue and Rhode Island Avenue; on Tennessee Avenue, New York Avenue and St. James Place between Pacific Avenue and the Boardwalk, also known as the Orange Loop, and the non-residential areas of Gardner's Basin;
2. On certain other streets or public spaces for special events during limited hours as permitted by special events permit issued by the City of Atlantic City or by amendment to this Executive Order.

B. Conditions under which a person may consume an alcoholic beverage in an Open Container Zone:

1. The person must be at least 21 years of age;
2. Alcoholic beverages consumed in the Open Container Zone must have been purchased from a licensed beverage establishment adjacent to or located within the Open Container Zone;
3. All alcoholic beverages in the Open Container Zone must be in a plastic container bearing the name and/or logo of the seller;
4. No open container of an alcoholic beverage may be removed from the Open Container Zone;
5. No open container of an alcoholic beverage may be consumed in any motor vehicle whether or not in the Open Container Zone.

C. Conditions under which a vendor of alcoholic beverages may permit a patron to remove alcoholic beverages for intended consumption in the Open Container Zone:

1. The vendor's licensed premises must be within or adjacent to an Open Container Zone;
2. The vendor must hold a Plenary Retail Consumption License issued by the City of Atlantic City, Casino Hotel Beverage Permit issued by the Division of Gaming Enforcement, or Concessionaires Permit issued by the State of New Jersey, Division of Alcoholic Beverage Control;
3. The vendor may only permit a patron, who is at least 21 years of age, to remove a single alcoholic beverage in a container no larger than 16 ounces, marked with the name and/or logo of the vendor, and sealed with a lid and tamper evident marking;
4. The vendor shall complete and file a registration with the City indicating that the vendor intends to permit its patrons to remove containers of alcoholic beverages for intended consumption in the Open Container Zone as provided herein and that the licensee or permittee acknowledges and shall abide by all requirements established for such purpose;
5. The registration form shall require the vendor to agree to indemnify and defend the City for claims by third parties against the City to the extent losses from those claims are the direct result of the vendor's alcoholic beverage service;
6. The vendor shall provide the City with evidence of insurance coverage, naming City and its elected and appointed officials, officers, employees and agents as Additionally Insured, with general liability and liquor liability coverage in an amount no less than \$2 million with terms of coverage as may be required by the City;

7. No vendor shall permit any patron to remove more than one alcoholic beverage upon that patron's exit of the licensed premises;
8. The vendor shall have conspicuously posted signage at the exits of the licensed premises from which patrons are permitted to remove alcoholic beverages providing notice regulations relevant to the Open Container Zone, such as "The City of Atlantic City permits, on the Boardwalk between Sovereign and Rhode Island Avenues, on Tennessee Avenue, New York Avenue and St. James Place between Pacific Avenue and the Boardwalk, also known as the Orange Loop, and within the non-residential areas in Gardner's Basin, the consumption of alcoholic beverages from plastic containers bearing the name and/or logo of, and purchased from, qualified licensed beverage establishments. Those permitted open containers of alcoholic beverages may not be removed from the specified areas of the Open Container Zone and no open containers of alcoholic beverages are permitted on the City streets outside of the Open Container Zone."

IT IS FURTHER ORDERED, any individual or business found to be in violation of this Order shall, in addition to fines and penalties, risk loss of license to operate and shall be prosecuted to the fullest extent of the law.

IT IS FURTHER ORDERED, this Executive Order shall take effect on Friday, June 12, 2020 and shall remain in effect until: (1) the date of expiration, termination, or rescission of any executive or administrative orders issued by the Governor or Commissioner of Health establishing coronavirus-related occupancy or customer seating restrictions applicable to licensed premises; or (2) the first day of the seventh month following the date on which the Governor declares that the state of emergency has ended, whichever date occurs later or until otherwise revoked or modified and supersedes any prior Mayor's issued Executive Orders.

Given, under my hand and seal
This 8th Day of June in the
year of Our Lord, Two Thousand and Twenty



Honorable Marty Small, Sr., Mayor

ATTEST:



Paula Geletei, City Clerk