

PLPZ202000317 –

PROPOSED AMENDMENT TO SECTION 6-100 – USE GROUP 1

TO ALLOW FOR EXTENDED TEMPORARY OUTDOOR DINING PERMITS

Proposed language to Section 6-100 as noted in its entirety below:

Continuation of Temporary Outdoor Dining in Response to COVID-19 – Any restaurant operating with an approved temporary outdoor dining permit issued by the Greenwich Planning and Zoning Department, pursuant to CT Governor Lamont's Executive Order 7MM as of the date of this amendment may continue to operate and use the area approved and as shown in that permit, until December 21, 2020 or until Executive Order No. 7 MM is repealed to contain the spread of COVID-19.

PURPOSE:

The Planning and Zoning Department, in coordination with Fire, Building, Health, Risk Manager, DPW, and Police, issued over 55 Temporary Outdoor Dining Permits throughout the Town. The Governor's Executive Order allowing temporary outdoor dining expires on November 12, 2020. The authority to extend temporary outdoor dining once the Orders expires, is solely that of the Planning and Zoning Commission.

Although this proposal affects all outdoor establishments throughout the Town including private clubs, the Board of Selectman voted to close portions of Greenwich Avenue to allow for dining “nodes” on Greenwich Avenue. These nodes are barricaded areas usually in parking spaces for the purposes of allowing restaurants to setup tables outside in a way that allows for appropriate social distancing. The Board of Selectman voted again on July 22, 2020 to continue the road closure through to December 21, 2020.

The purpose of this regulation is to allow for the continuation of temporary outdoor dining in alignment with the road closures and “nodes”.

Public comment:

A survey of the current permit holders was done by P&Z staff in early October. The results are attached but effectively most respondents want the option to continue outdoor dining. At a public workshop held by the Board of Selectman on Tuesday October 27, 2020, public comment was obtained. The discussion focused on the bottom of Greenwich Avenue and whether that area should remain closed to all vehicular traffic or whether a lane of traffic should be permitted which would also allow for approximately 9 parking spaces. The issues raised include difficulty of residents to access their homes (cited laundry, groceries etc), handicap accessibility issues, fire safety, lack of commercial exposure and complaints that closing of the road has been detrimental to retailers.

PRACTICAL USE OF OUTDOOR DINING IN THE WINTER MONTHS:

Joseph Cassidy, the State Building Official issued a memo on October 14, 2020 with guidelines about tents and heaters, which is attached.

It reads: TENTS • Tents with two or more sides up, comprising 50% or more of their total wall space, may operate under Sector Rules for Outdoor Dining; space heaters must adhere to appropriate local permits and/or inspections • Fully enclosed tents or tents with over 50% of their total wall space down will be treated as indoor dining and must conform to state and local building codes. Individual party and/or table igloos or other small enclosures are prohibited at this time.

Any use of tents and heaters are only permitted if the restaurant goes through the application process for a revised temporary outdoor dining permit. Outdoor dining beyond Nov. 12 is only permitted if the Governor extends the Executive Orders (expected) or the Commission allows it through this proposed zoning amendment.

POCD:

Sections of the 2019 POCD to consider include, Objective 5.4: Continue to strengthen Downtown as the central business district of Greenwich and the core of the community by creating vibrancy, and implementing improvements to parking, and recreational spaces. Objective 5.1: Retain, grow, and attract a wide range of businesses to increase the Town's competitive advantage.

BACKGROUND: State and local civil preparedness emergencies were declared in mid-March 2020 due to the Coronavirus Pandemic (COVID-19). Local restaurants were restricted to offering take-out and curbside pick-up. On May 20, 2020 Phase 1 of the State of Connecticut's Business Re-Opening program began and municipalities were authorized to approve "Outdoor Activities" pursuant to Executive Order No. 7MM enabling local restaurants to offer outdoor patron dining provided each establishment demonstrates compliance with COVID-19 public health and safety guidelines issued by the State of CT. On June 17, 2020 the State of CT began Phase 2 of the Business Re-Opening program enabling resumption of indoor dining limited to 50% of the original occupancy. The State's Business Re-Opening program combined with residents' efforts to support local businesses have helped many restaurants.

Proposed text is in bold and deleted text is denoted via strikethrough.

Sec. 6-100. USE GROUPS FOR BUSINESS ZONES.

In order to carry out the purposes and provisions of these regulations, the uses of all non-residential buildings and structures have been classified into Use Groups.

Any use not specifically listed in the following Use Groups shall be prohibited, unless allowed under Use Group 5A by Special Exception. (9/15/86) (10/17/18)

USE GROUP 1 (9/28/2010)

...

Outdoor dining facilities, ancillary and contiguous to an eating establishment (restaurant, or retail food establishment), operating on a seasonal (seven month) basis starting on April 1st and concluding on November 1st in any calendar year and subject to the following: (11/25/2008, 3/25/2014)

- (1) Proof of the availability of adequate parking shall be submitted at the time of application for final site plan approval guaranteeing said availability for the period the use is to function.
- (2) Proof of adequate liability insurance shall be provided. Outdoor dining areas located on Town sidewalk(s) will be required to carry additional liability insurance and/or policies in such an amount as determined by the Town's Risk Management Office. Proof of liability insurance shall be disclosed on an Acord form entitled, "Certificate of Liability Insurance", and be in the amount as required by the Town's Risk Management Office. The Town of Greenwich shall be named as an additional insured. If alcohol is being served, the Certificate of Liability Insurance certificate must disclose that liquor liability insurance is in place for the same amounts of the required general and umbrella liability policies and the applicant will be required to carry further liability insurance and/or policies. The owner/operator shall sign an agreement indemnifying the Town from liability on adjacent Town property resulting from the operation of said use prior to the issuance of Building and Zoning permits. (4/9/2014)
- (3) When the seasonal use ceases at the end of the approved period, all evidence of such use shall be removed from the premises. (4/9/2014)
- (4) If said use is to be re-established the applicant must reapply, annually, and again meet all conditions and standards of this subsection.
- (5) Dining facilities use must be entirely on property owned or leased by the applicant. Public property may not be used for dining facilities purposes unless a properly executed lease agreement has been obtained and all insurances as approved by the Town. (4/9/2014)
- (6) Building and Zoning permits must be obtained prior to the start of dining facilities use regardless of the amount of construction involved. (11/17/97, 4/9/2014)
- (7) In the case of small-scale projects (3 tables or less, on private property) site plan approval by the Planning and Zoning Commission will not be necessary. The Town Planner shall review and approve said projects after assurance that the conditions of this subsection have been met and any requisite insurance is provided as mandated by the Town. (4/9/2014)
- (8) Will not interfere with public, state or municipal use of any public street, sidewalk or property, will not create a disturbance or hazard to pedestrians or traffic and will not interfere with the safe and free flow of pedestrians or traffic. (7/24/83)

Continuation of Temporary Outdoor Dining in Response to COVID-19 – Any restaurant operating with an approved temporary outdoor dining permit issued pursuant to CT Governor Lamont's Executive Order 7MM as of the date of this amendment may continue to operate and use the area approved and as shown in

PLPZ 2020 000317
Prepared by Katie DeLuca
October 30, 2020

that permit, until December 21, 2020 or until Executive Order No. 7 MM is repealed to contain the spread of COVID-19.

Town of Greenwich

Board of Selectmen Meeting

July 22, 2020

10 a.m.

Via Zoom webinar

APPROVED MINUTES

1. Welcome and Pledge of Allegiance

The meeting was called to order at 10:06 a.m.

a. Attendance:

- a. First Selectman Fred Camillo - Present
- b. Selectwoman Lauren Rabin – Present
- c. Select-person Jill Oberlander - Present

2. Approval of Minutes

- a. Board of Selectmen special meeting on July 9, 2020.

Upon a motion by Ms. Rabin and a second by Ms. Oberlander, the minutes were approved unanimously.

3. First Selectman's Updates

Mr. Camillo provided updates on a variety of issues related to the COVID-19 pandemic; a plan to clean up the traffic islands at Exit 2 of I-95 in Byram; the proposed police reform legislation including the establishing of a Citizens Review Board and the possible closure of the road near Sinawoy Road to allow for outdoor dining.

4. Selectmen's Updates

Selectwomen Oberlander and Rabin provided updates on activities they are involved with.

Mr. Camillo made a motion to add to the agenda, the extension of outdoor dining to Dec. 21, 2020. After a second by Ms. Oberlander, the motion was approved unanimously.

Ms. Oberlander made a motion to extend the current road closure on Greenwich Avenue for outdoor dining until Dec. 21,

2020. After a second by Ms. Rabin, the motion was approved unanimously.

5. Old Business

- a. Amend Town Code Section 6C: Nuisances – Town Administrator Ben Branyan.

The item was postponed.

- b. Proposal to preserve 72 acres of Aquarion land at 836 Lake Avenue in partnership with Greenwich Land Trust with Municipal Improvement referral – Environmental Affairs Director Patricia Sesto.

Upon a motion by Ms. Rabin that was seconded by Ms. Oberlander, the MI referral was approved unanimously.

6. New Business

- a. Request for Municipal Improvement referral for the Eastern Greenwich Civic Center – Superintendent of Buildings, Maintenance and Construction Alan Monelli.

Mr. Monelli gave a history and review of the proposal.

This was the first read on the MI referral request and will be voted upon at the August 13, 2020 Board meeting.

- b. Amend Traffic Ordinance to include a no parking zone on Sunshine Avenue – Parking Services Business Manager LuAnn Bellantoni.

DPW Engineer Jason Kaufman and Ms. Bellantoni provided an overview of the request.

Upon a motion by Ms. Rabin that was seconded by Ms. Oberlander, the amendment was approved unanimously.

- c. Request to appoint a Greenwich High School Security Vestibule Project Building Committee – School Superintendent Dr. Toni Jones.

Dr. Jones gave an overview of the project. Town Attorney Marino explained the Board of Selectmen appoints the committee, subject to approval by the Representative Town Meeting.

7. Appointments and Nominations

There were none.

8. Executive Session

Upon a motion by Ms. Rabin at 11:10 a.m. that was seconded by Ms. Oberlander, the Board voted unanimously to enter an Executive Session to discuss pending litigation.

Also attending the session were attorneys Valerie Maze Keeney and Bob Mitchell, and Recording Secretary Barbara Heins.

Upon a motion by Ms. Oberlander at 12:14 p.m. that was seconded by Ms. Rabin, the Board voted unanimously to exit the Executive Session.

9. Adjournment

At 12:16 p.m., Ms. Rabin made a motion to adjourn. Upon a second by Ms. Oberlander, the motion was approved unanimously.

Fred Camillo, First Selectman

Prepared by Barbara A. Heins,
Recording Secretary



Memorandum

Date:	May 13, 2020 REVISED October 14, 2020
To:	Municipal Building Officials and Fire Marshals
From:	Joseph V. Cassidy, P.E., State Building Inspector William Abbott, State Fire Marshal
Subject:	Re-opening of Restaurants for Outdoor Dining

Update 10/14/20: The following addition was made to the Re-open CT restaurant guidelines on 9/23/20 which has prompted numerous questions to our offices:

TENTS • Tents with two or more sides up, comprising 50% or more of their total wall space, may operate under Sector Rules for Outdoor Dining; space heaters must adhere to appropriate local permits and/or inspections • Fully enclosed tents or tents with over 50% of their total wall space down will be treated as indoor dining and must conform to state and local building codes.

Also, EO 7000 extended the expanded outdoor dining rules:

1. Extension of Expanded Outdoor Dining. All provisions of Executive Order No. 7MM and any approvals issued under it shall be extended through November 12, 2020. Extension of any approval for use of a right-of-way owned or controlled by the state shall be contingent upon approval, as applicable, by the appropriate federal transportation officials.

The references in the DECD document to outdoor dining and indoor dining refer to their operational rules for table placement and other issues, not as related to the building and fire codes. These tents should be permitted and inspected under chapter 31 of the IBC and IFC. Building Officials and Fire Marshals both have roles in reviewing these installations.

Section 3103 limits temporary tents installations to 180 days per calendar year. This time limit for temporary status is extended to 365 days or until the end of the emergency.

Portable heaters will be prominent as owners want to continue outdoor dining with the weather getting colder. Regarding the heating of Tents, Canopies, and Membrane Structures (this includes awnings mounted to a building) the requirements are found in the Connecticut State Fire safety Code Part III Sections 603.4 and 603.5. Section 603.4 prohibits portable unvented fuel fired (all fuels) heating equipment in certain occupancy classifications. Additionally, subsection 603.4.2 addresses outdoor gas-fired heating appliances. Listed heating appliances are covered in section 603.5. Electrically powered space heating equipment including any

extension cords are to be in accordance with NFPA 70 the NEC. The manufacturer's installation and use instructions should be provided to you. An appropriate method of heating a tent, canopy, or membrane is through ducted in heat from a heater fuel fired heater located outside the tent (indirect heat).

Snow and wind loads will be a larger concern as the weather changes. The tent manufacturer should supply the loading capabilities of their tents. I am also attaching the requirements that we developed with the rental industry for ballasted tents from the proposed (2021) building code. You can use these as a guide for reviewing those installations.

Another scenario we have received questions about is a restaurant taking over a vacant adjacent space to expand its dining capacity. These temporary uses probably will not comply with all the requirements for a change of use. We advise that you provide a temporary certificate of occupancy conditioned on the expiration of the governor's emergency declaration. Restroom facilities, ventilation, egress etc. should be based on the actual number of occupants under the DECD rules, not the normal calculated occupant load.

Our offices have been receiving many calls with questions regarding the re-opening of outdoor seating for restaurants on May 20, 2020. The Department of Economic and Community Development has published guidelines to aid owners in the re-opening process, which is included with this advisory. There is a self-certification requirement that is part of the DECD program, so each restaurant should have this certification.

From a building and fire code standpoint, these should be handled no differently than they have in the past. However, we are sure you going to see some very creative ideas which will challenge the limits of the code. These situations will require an equal amount of creativity and common sense to help make sure these areas are safe for patrons and staff without preventing these establishments from operating. We need to keep in mind we are dealing with people who are struggling to keep their businesses going and are reacting in the moment just as we are. So, the key here is facilitation, help them get to a safe arrangement. Here are few specifics items.

1. An occupant load for the establishment shall be determined normally. The owner/manager of the facility is responsible for the maintenance of the reduced capacity of 50% or less of the normal occupancy and the 6' of social distancing requirements.
2. Verify egress is sufficient for occupancy of the outdoor seating area.
3. If tents are erected permits are required only for tents greater than 400 square feet in area (or 700SF if open on all sides). Membrane material should comply regardless of the size of the tent (3103.5.8).
4. If there is temporary heat installed it needs to meet the requirements of the building and fire codes.
5. Accessible seating needs to be provided and an accessible route to the dining area is required.
6. Restrooms need to be provided for guests. The number can be limited based on the occupancy or segregated between staff and customers.

Q1

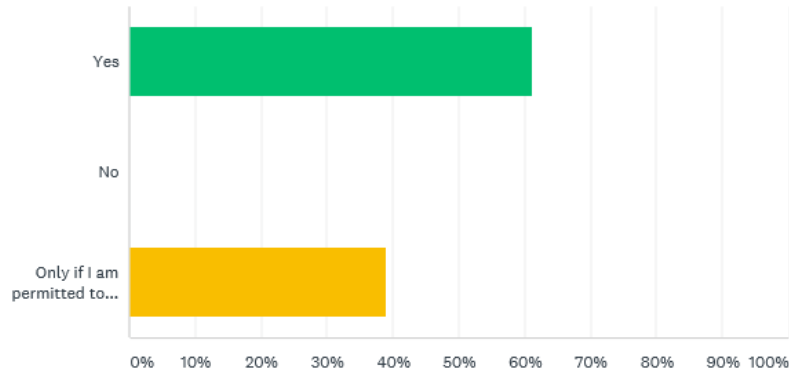


Customize

Save as ▾

Given the latest Executive Orders now allows for 75% occupancy inside, do you see a value in extending the outdoor dining past Nov. 9 and into the winter months?

Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES
Yes	61.11% 11
No	0.00% 0
Only if I am permitted to use a tent and heaters (see Q2)	38.89% 7
TOTAL	18

[Comments \(2\)](#)

RESPONSES (2) WORD CLOUD TAGS (0)

Sentiments: OFF

Add tags ▾ Filter by tag ▾

Search responses

Showing 2 responses

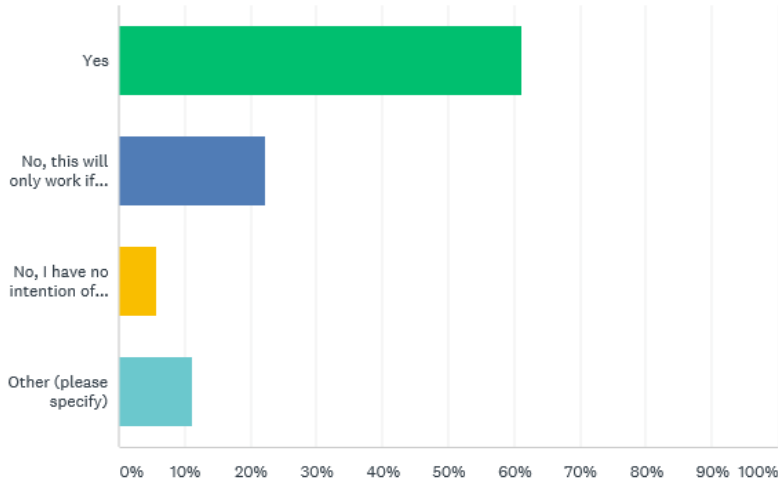
we would like to have the option of it and keeping it as long as we can and as much as we can. Yes to tents, yes to heaters.
10/1/2020 11:56 AM [View respondent's answers](#) [Add tags ▾](#)

i think there needs to be some form of heating, otherwise nobody will eat outside
9/30/2020 10:18 AM [View respondent's answers](#) [Add tags ▾](#)



If temporary outdoor dining is permitted past Nov. 9, would you use a tent (and presumably heaters) knowing that only 2 sides of the tent could be down? A side against a wall would be considered one of the sides.

Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES
▼ Yes	61.11% 11
▼ No, this will only work if I can fully enclose the tent	22.22% 4
▼ No, I have no intention of using a tent regardless	5.56% 1
▼ Other (please specify) Responses	11.11% 2

[RESPONSES \(2\)](#) [WORD CLOUD](#) [TAGS \(0\)](#)

Sentiments: OFF

Add tags ▼ Filter by tag ▼

Search responses

Showing 2 responses

should be allowed to fully enclose

9/30/2020 5:40 PM

[View respondent's answers](#)

[Add tags ▼](#)

fully enclosed 75% capacity

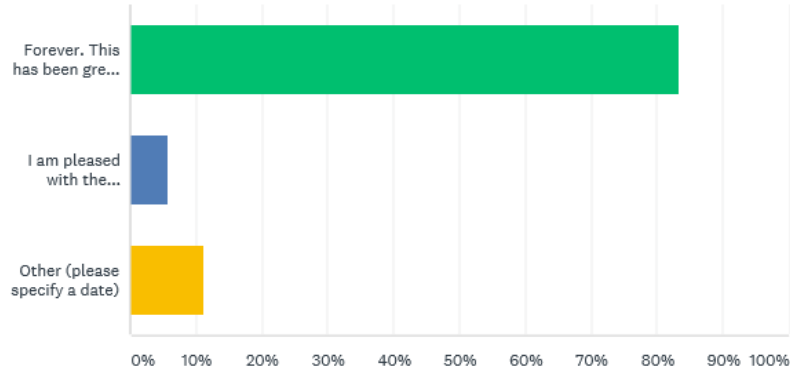
9/30/2020 10:18 AM

[View respondent's answers](#)

[Add tags ▼](#)

If Temporary Outdoor Dining Permits is extended, how long would you like to see it extended for (regardless of the number of indoor seats permitted)

Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES
Forever. This has been great for business and the Town	83.33% 15
I am pleased with the temporary dining as a response to COVID-19, but would like to see everyone move back to the pre-covid condition as soon as possible	5.56% 1
Other (please specify a date)	11.11% 2

RESPONSES (2) WORD CLOUD TAGS (0) Sentiments: OFF

Add tags Filter by tag Search responses

Showing 2 responses

- As weather permits
 9/30/2020 11:28 AM [View respondent's answers](#) [Add tags](#)
- until a vaccine is created, and still do outdoor dining in summer, it is great for the avenue
 9/30/2020 10:18 AM [View respondent's answers](#) [Add tags](#)

- Respondents:**
- AUx Delices Greenwich & Riverside
 - Moon Restaurant
 - Applausi
 - Le Pain Quotidien - 382 Greenwich ave
 - tbd
 - Beach House Cafe
 - Douro
 - La taqueria
 - Various
 - ORIENTA
 - Sweet Peas Baking Company LLC
 - La Fenice
 - Upper Crust Bagel Company
 - BUILDING OWNER
 - Le Penguin & Le fat poodle