



Expedited Approval for Outdoor Permits Just in Time for Connecticut's Re-Opening

Hinckley Allen Real Estate

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Prior to the first phase of re-opening non-essential businesses in the State of Connecticut, which will commence on May 20, 2020, Governor Ned Lamont issued Executive Order 7MM ("the Order") to expedite the approval and permitting process for businesses to expand operations to outside spaces to comply with social distance requirements. First, the Order allows local governments to amend municipal laws, ordinances and regulations through an expedited process. Second, it allows the review and approval of permits to conduct outdoor activities by only one official – a Zoning Official in the case of zoning approvals (i.e. a zoning administrator, chairperson of the Zoning Commission or Planning & Zoning Commission, or chief elected official), or a Local Enforcement Official in the case of additional departmental approvals (i.e. a building code official).

What's Changed?

By eliminating certain notice requirements for a zoning commission to amend its regulations, allowing single enforcement officials to approve applications that previously required lengthier approval processes, and relaxing the required items that applicants must include in a permit application, the Order simplifies and shortens the approval process and allows municipalities to expedite their practices to approve businesses to conduct outdoor activities. Further, the Order suspends all fees typically imposed in connection with application for outdoor activities permits for the duration of the emergency.

The Order also suspends minimum parking requirements, and lifts prohibitions on outdoor activities in parking lots, nearby lots with owner-permission, and allows local enforcement officials to permit outdoor activities in on-street parking spaces. Further, the Order suspends prohibition of outdoor activities on public sidewalks or other non-vehicular public rights of way (subject to a 6-foot pedestrian clearance), public roads or vehicular right of way (subject to conditions imposed by a municipal department that governs these areas, and further subject to approval by the Department of Transportation for outdoor activities in public roads).

However, the expedited process outlined above does not limit a Local Enforcement Official from requiring more information than what is required in the initial application if they determine it necessary to protect public health, safety and the environment.

Fortunately, unlike traditional (and more complex) application and review processes, an applicant for an outdoor activity permit is guaranteed a decision by a Local Enforcement Official for most applications within 10 days after the receipt of the complete application, or after receipt of further documentation as requested by the Local Enforcement Official, otherwise the application shall be deemed approved. If an application is denied or approved with conditions, an applicant can appeal such decision within 7 days of receiving the decision.

Outdoor Liquor Service Requirements

Additionally, the Order relieves liquor permittees of the need to obtain further approval to serve liquor on a patio or for an extension of use (provided they satisfy certain conditions). It also further expanded the application of prior Executive Orders 7G and 7T, to permit clubs, nonprofit and golf country clubs to sell to their members food and alcohol through delivery and pick-up, just as restaurants have been permitted to do under those Executive Orders. The current Order, however, continues to prohibit bars from selling alcohol for consumption at the bar, instead all alcohol must be served tableside and only in connection with outdoor dining.

Municipal Examples

Some municipalities have already taken advantage of these expedited approval processes or are in the process of creating plans to do so:

- The City of Hartford has created an expedited permit approval process for businesses to conduct outdoor activities, which is accessible on the City's official website. Businesses eligible for re-opening may apply for permits for outdoor dining, alcohol, and shopping activities, as well as for further signage approval.
- The Town of South Windsor has approved a plan for restaurants to provide temporary outdoor dining options, which requires barriers that designate the outdoor dining area, and satisfy health and fire safety standards, as well as additional standards.
- The City of Ansonia is preparing a plan that would shut down Main Street and re-route traffic to allow businesses along the street to reopen and access more outdoor space in the street.

Additional Considerations and Eligibility

All businesses will still be required to comply with fire and health department requirements in connection with permits obtained for outdoor activities, and zoning commissions are working together with these departments to streamline the process for businesses to obtain all approvals necessary to conduct business outdoor.

The first phase of businesses that are permitted to reopen and can take advantage of these changes to normal zoning procedures includes offices, retail stores and malls, and restaurants for outdoor dining – hair salons and barber shops have been delayed for reopening until June. The Order states that it shall remain in effect for the duration of the public health and civil preparedness emergency, unless earlier modified, extended or terminated. Landlords and Tenants interested in obtaining more information on these local approval processes can contact a [Hinckley Allen attorney](#) for further guidance.

We are here to help answer specific questions and offer advice on your options. Feel free to contact any member of our Real Estate Group.

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