



Zoning for Outdoor Living During COVID-19

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
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The World
Has
Changed.

 **Notice** Governor Lamont is telling Connecticut residents to "Stay Safe, Stay Home." All non-essential workers statewide are being directed to work from home, effective Monday, March 23 at 8:00 p.m. For the latest information, resources, executive orders, and guidance related to coronavirus (COVID-19), visit ct.gov/coronavirus

 Connecticut's Official State Website [Language + Settings](#)

Coronavirus Disease 2019 (COVID-19)

 **NOTICE:** Businesses and nonprofits seeking guidance related to Governor Lamont's "Stay Safe, Stay Home" executive order directing all non-essential workers statewide to work from home are urged to [read the guidance provided by DECD](#).

[CT.GOV HOME](#) / [CORONAVIRUS DISEASE 2019 \(COVID-19\)](#)

Coronavirus Disease 2019 (COVID-19)

The Centers for Disease Control and Prevention (CDC) is responding to an outbreak of respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in many [locations internationally](#), including in the United States. The disease has been named "coronavirus disease 2019" (abbreviated "COVID-19").

In Connecticut and throughout the world, [influenza](#) (flu) activity is high. The CDC encourages all people aged 6 months and older to be vaccinated. It is not too late to get vaccinated for the flu. Check with your healthcare provider, call your [local health department](#), or visit the [HealthMap Vaccine Finder](#) (adults) for availability of flu vaccinations.

The World
Has
Changed.

You may be able to go to Connecticut restaurants and eat outdoors starting May 20. Here's what that could look like for diners



By LEEANNE GRIFFIN
HARTFORD COURANT | MAY 05, 2020 | 11:21 AM



ADVERTISEMENT

more coronavirus tests
in more locations

Hartford

The
Laws
Have
Changed.

Connecticut Governor Executive
Order **7MM**

(May 2020)

The Big Picture:

“Covered Laws” to the contrary
are **suspended and temporarily
rewritten** for “Outdoor Activities.”

The "Covered Laws"

- State statutes
- Special Acts
- Local charters & ordinances
- Local resolutions & regulations
 - Includes zoning and historic reviews
 - Excludes wetlands regulation

The "Outdoor Activities"

- Food service
- Beverage service
 - With food
- Retail displays
- "COVID-19 Signage"
 - Less than 15 SF

The "Outdoor Activities"

- Hours of Operation:
 - Friday-Saturday – 11 p.m.
 - Other days – 9 p.m.
- We'll come back to this

The "Outdoor Activities"

- NOT live entertainment
- NOT bars without food



Expedited Municipal Review of Outdoor Dining and Retail. Any Covered Law requiring an applicant to receive an approval or permit for outdoor food and beverage service, outdoor displays of goods, or COVID-19 Signage, which activities (other than COVID-19 Signage) end at 11 p.m. or earlier on Friday and Saturday nights and end at 9 p.m. or earlier all other days of the week (such activities being, the “Outdoor Activities”) is suspended to the extent that the

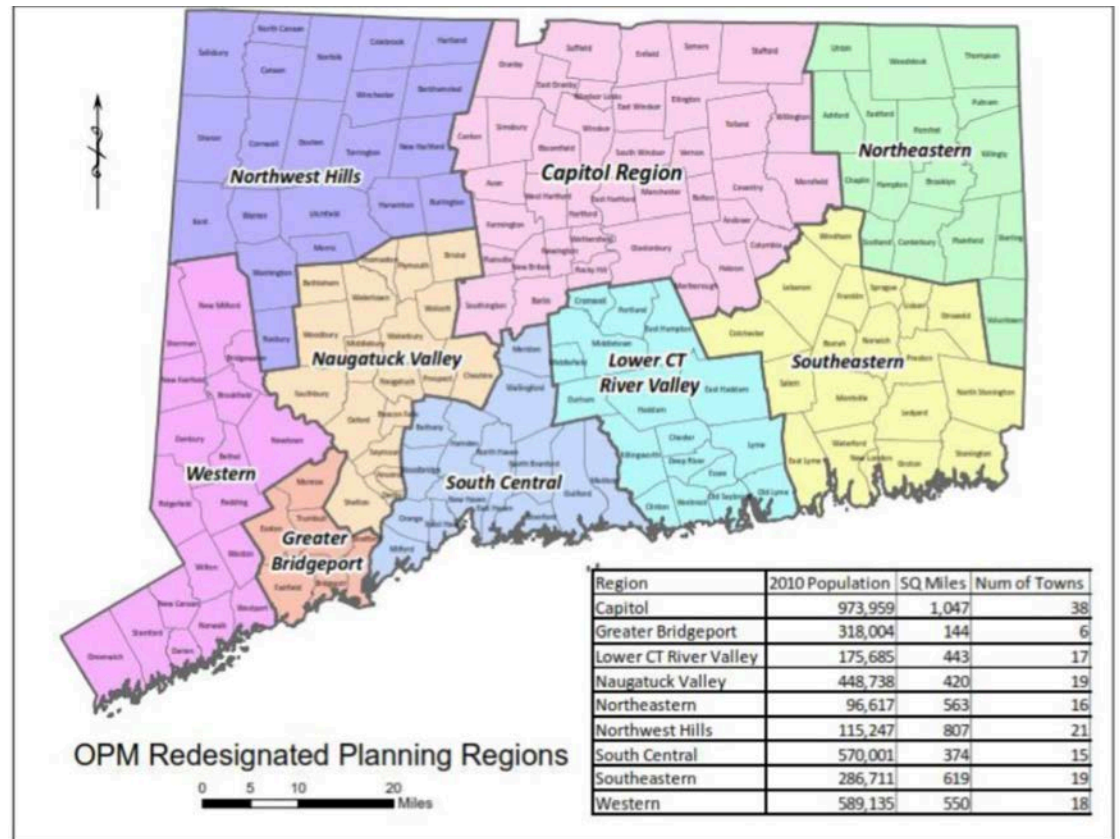
... “COVID-19 Signage” shall mean any outdoor, non-internally-illuminated, non-animated signage that is 15 square feet in size or smaller and contains directions, social distancing instructions, or other signage that might customarily be displayed within the building, including but not limited to menus or specials.

“Outdoor Activities” shall not be deemed to include live entertainment, provided that nothing in this Order shall be deemed to prohibit an independent approval of live entertainment pursuant to local regulation.

What
Changed:

- Regional COG Notice
- Outdoor Activities Permitted
- Initial Applications
- Reviews
- Appeals
- Sidewalks & Streets
- Other Matters

Regional COG Notice:



Regional COG Notice:

- No notice required for zoning amendments “necessary” to respond to COVID-19
- Who decides “necessity”?
 - Chief elected official
 - Chair of P&Z or Zoning Commission OR
 - Zoning administrator
- 35 → 10 day waiting period

Expedited Municipal Zoning Amendments. In order to expedite changes to municipal laws, ordinances, or regulations and ensure greater flexibility for local governments to respond to COVID-19, Section 8-3b of the Connecticut General Statutes is suspended and modified to provide that, if a zoning administrator, chairperson of the zoning commission or planning and zoning commission, or chief elected official has made a finding that a proposal is necessary to respond to the COVID-19 pandemic, including but not limited to making changes to permit the Outdoor Activities described herein, such zoning administrator, chairperson, or chief elected official may place such proposal, or cause such proposal to be placed, on the public hearing agenda of a zoning commission or a planning and zoning commission, as applicable, and such commission shall conduct its public hearing and act on such proposal without being required to adhere to the requirements of Section 8-3b.

Outdoor Activities Permitted:

- Towns must allow Outdoor Activities
 - Even if they are prohibited by local codes now
 - Even if local codes are silent

If We Didn't
Act...



Credit: Caitlin Palmer

Outdoor Dining and Retail Allowed During Emergency. Any Covered Law that does not explicitly allow Outdoor Activities or that prohibits Outdoor Activities shall be deemed to allow such activities as an accessory use to any location where food or beverages are served or goods are sold, as applicable, subject to review and approval by the Local Enforcement Official and reasonable conditions imposed through Local Enforcement Official review, provided that nothing in this order shall require a municipality to permit the sale or service of alcoholic beverages as a principal or accessory use anywhere that such activity is not permitted as a principal or accessory use, and provided further than nothing in this Order shall permit the sale of alcoholic beverages for on-premise consumption independent of sale of food, or permit the operation of outdoor bars unless expressly permitted by further executive order or by rules or guidelines issued by the Department of Community and Economic Development pursuant to an executive order.

Initial Applications:

- Requirements:
 - Drawing
 - Narrative
- Exclusions

Initial Applications:

- Drawing Requirement:
 - “Roughly to scale or dimensioned”
 - Must include area and identify what’s going to be placed/built

Initial Applications:

- Narrative Requirement:
 - Must explain impacts of:
 - Noise
 - Waste management
 - Odor
 - Light pollution
 - Environmental
 - Must explain mitigation

Initial Applications:

- Exclusions:
 - Pretty much anything requiring a stamp from an architect, engineer, or surveyor
 - Plans for parking, traffic, signage, soil erosion/sediment control, photometric lighting, or stormwater management

Initial Applications:

- If excluded from the initial application, can the town still ask for it?
 - Only if "necessary to protect public health, safety and the environment"

Application Process. Any Covered Law relating to applications for Outdoor Activities is suspended to the extent that it requires any of the following documents: plans stamped by a licensed engineer, landscape architect, or architect; site survey; parking plan; traffic study or plan; sign plan; soil erosion and sediment control plan; photometric lighting plan; or stormwater management plan; provided that the applicant has submitted, at a minimum, a drawing or illustration, roughly to scale or dimensioned and depicting with reasonable accuracy the outdoor area that is proposed to be used and what is proposed to be placed, built, or erected in the outdoor area, and a narrative (with or without accompanying illustrations) that explains any noise, waste management, odor, light pollution, and environmental impacts expected from same and how said impacts will be managed. Notwithstanding the preceding sentence, the Local Enforcement Official may require an applicant to submit additional and more detailed information that he or she reasonably deems necessary to protect public health, safety and the environment, in order to complete an application, taking into account the need for expedited review of such applications.

Reviews:

- “Reasonable” standard
- Conducted by municipal staff (not commissions):
 - Zoning administrator
 - Building code official
 - Other enforcement official with jurisdiction

Reviews:

- Hours of Operation
 - Can be *extended* as part of staff review

Expedited Municipal Review of Outdoor Dining and Retail. Any Covered Law requiring an applicant to receive an approval or permit for outdoor food and beverage service, outdoor displays of goods, or COVID-19 Signage, which activities (other than COVID-19 Signage) end at 11 p.m. or earlier on Friday and Saturday nights and end at 9 p.m. or earlier all other days of the week (such activities being, the “Outdoor Activities”) is suspended to the extent that the Covered Law requires review and determination of any application for Outdoor Activities by a multi-member municipal agency or any by any entity other than an individual municipal official generally responsible for administrative enforcement of the relevant Covered Law, such as a zoning administrator or a building code official (such official and his or her designee being, the “Local Enforcement Official”), and modified to require all such reviews and determinations to be conducted only by the Local Enforcement Official.

Reviews:

- Restrictions on location lifted:
 - Setbacks
 - Yards
 - Parking lots (*no parking minimums*)
 - Other “nearby” zoning lots (*with permission of owner*)

Reviews:

- Other “nearby” zoning lots:
 - Must have a commercial use OR
 - Be located in a commercial zoning district
- *See also: Sidewalks and Streets*

Reviews:

- **HOWEVER**, if reasonable-ness requires a restriction, you can restrict location

Minimum Parking Lifted to Facilitate Outdoor Activities. Any Covered Law requiring a minimum number of parking spaces or prohibiting Outdoor Activities from taking place in parking lots is suspended to the extent required to permit such Outdoor Activities alone or in conjunction with any other authorized activity, including any activity required to enable the response to the COVID-19 pandemic.

Any Covered Law prohibiting Outdoor Activities from taking place in on-street parking spaces is modified to allow the Local Enforcement Official to permit this activity, consistent with the requirements of this Order.

Shared Lots and Expanded Spaces. Any Covered Law requiring Outdoor Activities to take place on the same lot, zoning lot, street face or yard as a principal use, or to take place only in certain yards, shall be modified to allow Outdoor Activities to take place on any nearby lot, zoning lot, street face, or yard, (contiguous or not), provided that written permission from the owner of any other lot or zoning lot on which such Outdoor Activity is proposed to take place is provided to the Local Enforcement Official and further provided that any nearby lot, zoning lot, or street face used for Outdoor Activities must include a commercial use or be located in a commercial zoning district.

Reviews:

- Staff can:
 - Approve
 - Approve with conditions (including hours) OR
 - Reject

Reviews:

- Automatic approval within 10 days of *later* of actual receipt of:
 - The complete initial application
 - The receipt of additional materials required

Approval and Conditions. Notwithstanding any contrary Covered Law, the Local Enforcement Official shall review and approve, approve with conditions consistent with any executive orders or rules issued pursuant to executive orders (including extending the hours of operation), or reject any complete application for Outdoor Activities, and shall notify an applicant of such decision (including, but not limited to, emailed notice or certified mail) by the later of (i) ten days after actual receipt of the complete application, or (ii) ten calendar days after actual receipt of any additional materials required pursuant to the previous paragraph. Any failure of the Local Enforcement Official to act pursuant to the preceding sentence within such time period shall be deemed to be an approval of the application.

Appeals:

- Applicant can appeal a denial within 7 days of notice
- Appeal goes to planning & zoning commission or zoning commission
- No public hearing required

Appeals. Notwithstanding any contrary Covered Law, if a Local Enforcement Official approves with conditions or rejects an application for an Outdoor Activity filed pursuant to this Order, the applicant may appeal such decision, within 7 days of receipt of notice of the decision (including, but not limited to, emailed notice or certified mail), to the planning and zoning commission or to the zoning commission, as applicable, but if the zoning commission is the town's legislative body, to the planning commission, provided that any Covered Law that would require a public hearing for such appeal is suspended. Nothing in this Order shall suspend or modify an individual's right to submit a complaint to the relevant municipal authority or the right of a municipal authority to enforce conditions associated with a permitted Outdoor Activity, impose fines and fees, or issue a notice of violation or a cease and desist order.

Sidewalks and Streets:

- Public sidewalks or “nonvehicular” public rights of way with 6’ clearance
- Local streets, if the local traffic authority approves
- State road, if DOT approves

Sidewalks and Non-Vehicular Rights of Way. Any Covered Law prohibiting Outdoor Activities from taking place on public sidewalks or other nonvehicular public rights of way shall be suspended and modified to allow Outdoor Activities to take place therein, subject to a 6-foot clearance for pedestrian passage, and subject to reasonable conditions imposed by the municipal department with jurisdiction over sidewalk obstruction permits. Any Covered Laws prohibiting Outdoor Activities from taking place on a state highway right of way are modified to allow the State Department of Transportation (DOT) to issue a permit for such activities to take place in the non-vehicular portion of the state highway right of way pursuant to conditions imposed by the DOT.

Vehicular Rights of Way. Any Covered Laws prohibiting Outdoor Activities from taking place on a local public road or vehicular right of way are modified to allow the municipal official with jurisdiction over local roads, after consulting with the municipality's Local Traffic Authority and, if that local road is used for public transportation routes, consulting with the DOT, to close the road in order to permit Outdoor Activities without additional public hearings. Closure of any part of the vehicular portion of a state highway right of way shall not be permitted without a request from the municipality to the DOT pursuant to the Regulations of Connecticut State Agencies §14-298-262 for a Special Event Permit, provided that such Outdoor Activities shall be included in the definition of "special event" and the DOT shall use its best efforts to expedite review of any such request in furtherance of the purposes of this Order. Any Covered Laws prohibiting special event permits for the closure of a state highway are modified to authorize the DOT to issue such permits to allow Outdoor Activities pursuant to this Order. The automatic approval provisions of subsection 1(c) of this order shall not apply to this subsection.

Other
Matters:

- No nonconforming rights
- No fees for applications

No Nonconformity Rights Bestowed. Any Covered Law that would provide nonconforming use or structure rights to any activity or structure permitted during the state of emergency pursuant to this Section 2 of this Order is suspended.

No Application, Building or Related Fees. The Covered Laws are suspended to the extent they impose fees for applications filed pursuant to this Order for Outdoor Activities, and no fees for such applications shall be collected or be due and owed to the State or to any municipality for the duration of the emergency.

Lessons:

- Make a special application (see Hartford)
 - Tell applicants the permit only lasts during the State of Emergency
- Prioritize applications that need more attention

Lessons:

- Change zoning regs NOW to extend for the season
- Tell intake staff no fees should be collected

Will the
Laws Ever
Be the
Same?

Looser regulations?
Different role for regional COGs?
Fewer application
requirements?

Will we
become
Paris...



Can city life stay more al fresco post-pandemic?

BY SARA C. BRONIN, OPINION CONTRIBUTOR — 05/05/20 06:30 PM EDT
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

39 SHARES



Just In...

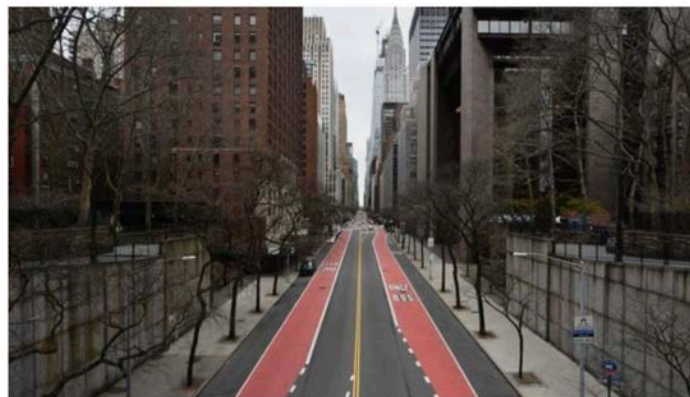
Gun control group to spend at least \$5 million in Arizona ahead of November

[CAMPAIGN](#) — 52S AGO

New England hospitals partake in online swap meets to trade PPE, supplies

[STATE WATCH](#) — 1M 41S AGO

Facebook sees jump in posts removed for promoting violence, hate speech



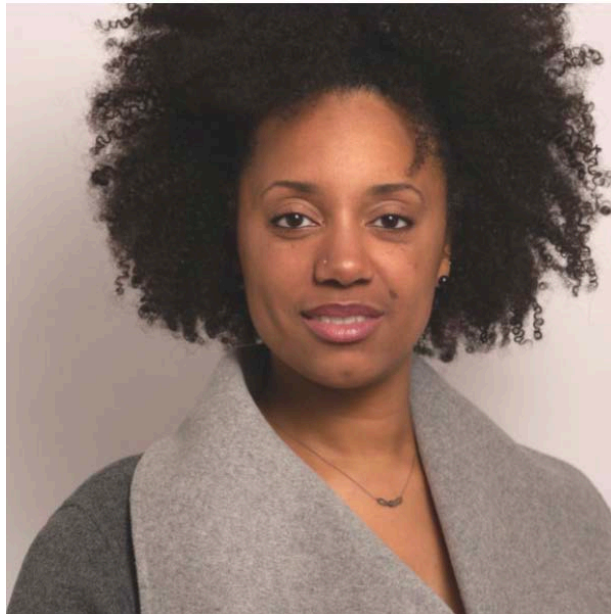
© Getty Images



... or the
Patio Life
State?



Special
Guest for
Q&A:



Aimee Chambers
Planning Director, City of Hartford



Hartford's Example:

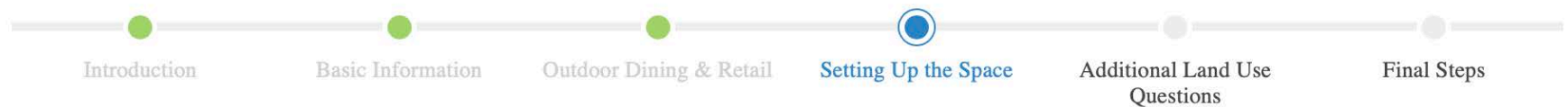
- Special application for Outdoor Activities only
- Online submission
- Automated email to applicants

<https://bit.ly/2yUQB8j>



Special Application for Outdoor Activities

CITY OF HARTFORD
DEPARTMENT OF DEVELOPMENT SERVICES
Planning Division



<https://bit.ly/2yUQB8j>



Welcome!

The City of Hartford is looking forward to working with you on your application to move your commercial activities outdoors. Please use this form if you are seeking permission to: serve food and beverages outside, to display retail goods outside, and/or to put up temporary COVID-19-related signage.

More details are available in the Governor's Executive Order 7MM:

<https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7MM.pdf>

<https://bit.ly/2yUQB8j>

Hartford's Example:

- "Things to Note"
 - Duration of permit
 - No fees
 - "If you want to make this permanent"
 - Live entertainment & outdoor cooking are a separate permit

<https://bit.ly/2yUQB8j>



* PLEASE SELECT ALL
THE ACTIVITIES YOU
ARE APPLYING FOR:



Outdoor Eating



Outdoor Alcohol



Outdoor Retail



Outdoor Signage - less than 15 sq. ft

<https://bit.ly/2yUQB8j>



Project Narrative(s)

Please fill-in each of the following fields and attach drawings and/or illustrations as necessary. NOTE: illustrations do not have to be professionally drawn by an architect or design professional but please draw them to scale as best possible and include dimensions.

Please tell us more about what you would like to do.



This field is required. Please enter a value.

Potential Noise Impacts



If none, please input "N/A"

<https://bit.ly/2yUQB8j>

Hartford's Example:

- Wufoo Application
- Planning, DPW, Licenses & Inspections, & Health can login & comment

<https://bit.ly/2yUQB8j>

QUESTIONS?



Stay in Touch!

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