



# Proposed Building Zone Regulations Revisions: Outdoor Dining, ASDRC, Cannabis Moratorium

Town Plan and Zoning Public Hearing

February 15, 2022



# Introduction

- Background and Proposed Language for Zoning Regulation Amendments
  - Outdoor Dining
  - Architectural and Site Design Review Committee
  - Cannabis Moratorium



# Outdoor Dining Executive Orders

- Executive Order 7MM from May 2020 required expedited review and approval of outdoor dining as an accessory use to a permitted food establishment
  - 10-day turn around of application
  - Relaxed application requirement standards
  - Use of sidewalks and parking areas
- Public Act 21-3 essentially extended Executive Order 7MM until March 31, 2022



# Outdoor Dining Temporary Permits Issued

- 13 Applications were processed in spring of 2020 under Executive Orders
- 11 Approved
- All approved maintain temporary permits through March 31, 2022
- One converted to a special permit

COVID-19 TEMPORARY OUTDOOR DINING TRACKING			
TOD Application Number	Restaurant Name	Property Address	Decision
TOD- 1	First and Last Tavern	21 Rankin Rd	Approved
TOD- 2	Maggie McFly's	40 Glastonbury BLVD	Approved
TOD- 3	J. Gilbert's	215 Glastonbury Blvd	Approved
TOD- 4	Bin 228	63 Hebron Ave	Approved
TOD- 5	The Juliet House	82-84 Naubuc	Denied
TOD- 6	The Juliet House	82-84 Naubuc	Denied
TOD- 7	Mexi Pho	2872 Main St	Approved
TOD- 8	Flynn's Grill	875 Main St	Approved
TOD-9	Crystal Ridge Winery	257 Belltown Rd	Approved
TOD-10	Max Fish	110 Glastonbury Blvd	Approved
TOD-11	Spicy Green Bean	103 NL TPK	Approved
TOD_12	Cotton Hollow Kitchen	840 Main St	Approved
TOD-13	Oakwood Virtual Golf	293 Oakwood Drive	Approved



# Outdoor Dining Legislation

- Public Act 21-2, Section 182, intended to permanently establish a streamlined process for obtaining outdoor dining permit:
  - Sec. 182. (NEW) (Effective April 1, 2022) (a) For the purposes of this section, "beverage" includes alcoholic liquor or an alcoholic beverage, as defined in section 30-1 of the general statutes, "food establishment" means a food establishment that is licensed or permitted to operate pursuant to section 19a-36i of the general statutes, and "municipality" has the same meaning as provided in section 8-1a of the general statutes.
  - (b) Notwithstanding any provision of the general statutes, special act, municipal charter or ordinance, the zoning commission of each municipality shall allow any licensee or permittee of a food establishment operating in such municipality to engage in outdoor food and beverage service as an accessory use of such food establishment's permitted use. Such accessory use shall be allowed as of right, subject only to any required administrative site plan review to determine conformance with zoning requirements not contemplated by this section, provided such accessory use would not result in the expansion of a nonconforming use.
  - (c) Any such licensee or permittee may engage in outdoor food and beverage service (1) on public sidewalks and other pedestrian pathways abutting the area permitted for principal use and on which vehicular access is not allowed, (A) provided a pathway (i) is constructed in compliance with physical accessibility guidelines, as applicable, under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time, and (ii) such pathway extends for the length of the lot upon which the area permitted for principal use is located, and not less than four feet in width, not including any area on a street or highway, shall remain unobstructed for pedestrian use, and (B) subject to reasonable conditions imposed by the municipal official or agency that issues right-of-way or obstruction permits; (2) on off-street parking spaces associated with the permitted use, notwithstanding any municipal ordinance or zoning regulation establishing minimum requirements for off-street parking; (3) on any lot, yard, court or open space abutting the area permitted for principal use, provided (A) such lot, yard, court or open space is located in a zoning district where the operation of food establishments is permitted, (B) such use is in compliance with any applicable requirements for access or pathways pursuant to physical accessibility guidelines under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time, and (C) the licensee or permittee obtains written authorization to engage in such service from the owner of such lot, yard, court or open space and provides a copy of such authorization to the zoning commission; and (4) until 9 o'clock p.m., or a time established by the zoning commission of the municipality, whichever is later.



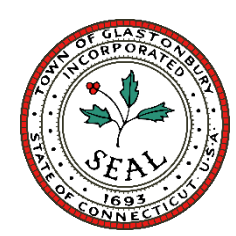
# Outdoor Dining Regs Time Sensitivity

- Absent new local regulations, it appears that the Building Official/ ZEO would review and approve permits in accordance with the new state legislation, as is established for other as-of-right accessory uses in the current Regulations



# Outdoor Dining Regs Considerations

- As-of-right use in compliance with standards
- Administrative site plan review and approval can be conducted by staff or TPZ
  - BZR Working Group recommends TPZ approval with staff review
  - Site plan review differs from special permit review and approval
    - Special permits are for uses generally permitted in a zone, but approved on a case-by-case basis. Because Commission is approving a particular permitted use on a particular site, can place conditions on approval.
    - Site plan review for uses that are allowed everywhere in zone. The review is strictly to determine compliance with regulations. Decisions must be based on the standards set forth in regulations, modifications or denials can only result from failure to comply with regulations
- Proposed language attempts to establish more robust and explicit use, design and safety standards than the new state law



# Outdoor Dining Regs Draft

## NEW 7.11 Outdoor Dining

- 1) Purpose and Intent: The purpose of this section is to permit outdoor dining and beverage service, including service of alcoholic liquor or alcoholic beverages, as an accessory use to a food establishment licensed under Connecticut General Statutes Sect. 19a-36i as amended.

Outdoor dining areas contribute to the vibrancy and streetscape of an area, and help to encourage pedestrian activity. However, they must not create a nuisance in the form of loud music, unruly customers or disorderly premises. The design of outdoor dining areas should complement the design of the principal food establishment, while also contributing to the attractiveness of the streetscape.

- 2) Applicability

- a) This section applies to any licensed food establishment, in any zone where service of food and beverage for consumption on the premises is a permitted use.
- b) This section applies to outdoor dining areas that have full food and beverage service from a wait staff, and outdoor dining areas to which customers bring their food purchased from inside the establishment.
- c) Outdoor dining shall be an as-of-right use unless a food establishment is a non-conforming use as defined in Section 8 of these regulations.

- 3) Review and Approval

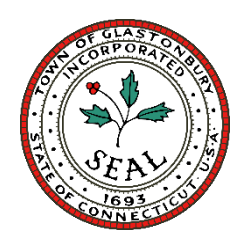
- a) The Town Plan and Zoning Commission shall review and approve all applications for a new outdoor dining area or modification to an existing outdoor dining area as an Administrative Site Plan approval.
- b) The Office of Community Development, Building Official, Town Engineer, Health Director, Fire Marshal's Office, and Police Department shall review all applications for outdoor dining and provide recommendations to the applicant and Town Plan and Zoning Commission with regard to design, health and safety measures.

- Establishes intent to have outdoor dining contribute to vibrant streetscape, rather than detract from

- Establishes accessory use for licensed food establishments only
- Outdoor dining area may be for take-out or full service
- As-of-right only for conforming uses

- Establishes TPZ as approving authority
- Requires review by relevant Town departments



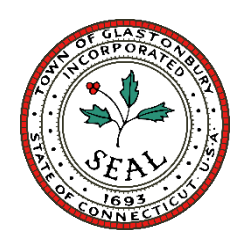


# Outdoor Dining Regs Draft

## 4) Submission Requirements

- a) Applicants for outdoor dining shall submit a narrative and simplified site plan not necessarily drawn to scale that identifies the following:
- (i) Location of the proposed outdoor dining area and its proposed barriers relative to the food establishment, public pedestrian areas and parking. If the outdoor dining area, or any portion thereof, will occupy parking area, then parking lot circulation shall be clearly marked on the plan, and turning radii for emergency vehicle access shall also be identified.
  - (ii) All doors used to deliver food to the outdoor dining area; any outdoor service areas, including storage for clean and dirty dishes, condiments, drinking water and similar supplies; and proposed trash receptacles must be identified on the site plan.
  - (iii) Specifications for the proposed barriers – see Section 7.11(5) c
  - (iv) Business hours
  - (v) Plan for inclement weather
  - (vi) Alcohol service controls (Transfer of alcohol from preparation area to the patrons).
  - (vii) Description of smoking or smoke-free policy. If smoking is allowed, tent or canopy cannot be used. Without tent or canopy, 75% of seats need to be smoke-free.
  - (viii) Plan for trash disposal- frequency of emptying, overnight storage of bins
  - (ix) Plan for the location, operation and storage of any heat sources and their associated fuel

- Requires a narrative and “simplified” site plan in keeping with intent of more streamlined process
- Specific details on layout and operations required to ensure adequate information for determining compliance with standards

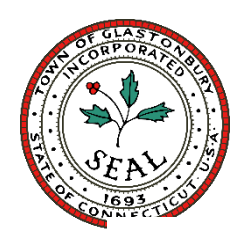


# Outdoor Dining Regs Draft

## 5) Standards:

- a) Location - Outdoor dining areas may be located in the following locations subject to the conditions of this subsection:
- (i) Public sidewalks and other pedestrian pathways abutting the area permitted for principal use and on which vehicular access is not allowed provided:
- The pathway is unobstructed for pedestrians and bicyclists.
  - The pathway is constructed in compliance with physical accessibility guidelines, as applicable, under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time, and
  - The pathway extends for the length of the lot upon which the area permitted for principal use is located,
  - The pathway is a minimum four feet in width, not including any area on a street
- (ii) On off-street parking spaces, except handicap accessible spaces, associated with the permitted use, notwithstanding any municipal ordinance or zoning regulation establishing minimum requirements for off-street parking provided:
- For outdoor dining areas providing seating for up to 20% of the food establishment's permitted seats, no additional parking is required
  - For outdoor dining areas providing seating for more than 20% of the food establishment's permitted seats, additional parking is required in accordance with Section 9 of these Regulations regarding off-street parking for restaurants.
  - Protective barriers around outdoor dining areas must be present. If an outdoor dining area will be used in the evening hours, barriers must have reflective materials.
  - Parking lot circulation, including emergency vehicle access shall remain unencumbered by any outdoor dining area.

- Per state law, must allow on public and private sidewalks, off-street parking spaces and on lot, yard, court or open space abutting the permitted use
- Attempt to place a reasonable limit on amount of parking area that can be occupied without having to provide some additional parking – *awaiting Town Attorney opinion on this approach*



# Outdoor Dining Regs Draft

- (iii) On any lot, yard, sidewalk, court or open space abutting the area permitted for principal use, provided:
  - a. Such lot, yard, sidewalk, court or open space is located in a zoning district where the operation of food establishments is permitted
  - b. Such use is in compliance with any applicable requirements for access or pathways pursuant to physical accessibility guidelines under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time
  - c. The licensee or permittee obtains written authorization to engage in such service from the owner of such lot, yard, sidewalk, court or open space and provides a copy of such authorization to the Office of Community Development.
- b) Hours of Operation – Outdoor dining shall be permitted between the hours of 6:00am and 11:00 pm with no new diners seated after 10:00 pm and all outdoor dining activities concluded by 11:00 pm.
- c) Design - All related outdoor dining facilities shall conform to the following standards:
  - (i) Protective barriers shall be made of any combination of decorative fencing, stone walls, structured landscaping, and/or building and architectural features (trellises, awnings). Use of jersey barriers or exposed cement block (cinder block) is prohibited. Protective structural elements shall be incorporated to adequately and suitably provide appropriate protection from traffic and other identifiable hazards for the specific location.
  - (ii) The above design features and architectural improvements shall be integrated with site buildings and the physical characteristics of the surrounding neighborhood. Additional structural and landscape screening may be required to buffer adjacent properties and streets from visual, lighting, noise, odor and other potential associated environmental/site impacts as deemed warranted by the Office of Community Development.
- d) Cleanliness & Hygiene – Outdoor dining areas shall be cleaned and maintained with removal of trash on a regular basis.

- Continuation of location standards for lots, yards, etc.
- Hours of operation limited to 11pm, with no new diners seated after 10pm
- Design standards for barriers, screening and general appearance – anticipate will be addressed more specifically for the TCVD through design guidelines
- Operating standards intended to help in enforcement of potential nuisance issues
  - Cleanliness



# Outdoor Dining Regs Draft

## e) Accessory Components

- (i) Associated apparatus - The use of portable umbrellas, heating units and other similar elements for the purpose of weather protection may be permitted provided that:
  - (a) They are properly maintained in a neat and good working condition and compliant with all applicable building, fire and health code standards and laws.
  - (b) They shall be adequately stored when not in use with appropriate containment.
  - (c) They shall not have any logos, lettering or images painted or otherwise affixed to them.
- (ii) Lighting - Lighting shall be dark sky compliant, and limited to that level which is necessary to illuminate the outdoor dining area for patrons and staff.
- (iii) Noise – All forms of amplified sound through speakers, TVs, video screens, etc. are prohibited in outdoor dining areas. Non-amplified sound, such as live acoustic music or other noises associated with outdoor dining activities shall not be audible on abutting properties after 9pm.

- Operating standards continued
  - Accessories
  - Lighting
  - Noise



# Related Required Change

## 6.6 Retail Trade

### Eating And Drinking Without Drive-In Or Curb Service

Retail Trade – eating and drinking without drive-in or curb service is a permitted special permit use in the Planned Business and Development (PBD) Zone and the Planned Travel (PT) Zone, subject to the requirements of those zones, and other review and approval which may be required by these Regulations and, in addition, the following conditions:

- a. No building shall be erected or altered which is used or is arranged, intended or designed to be used for retail trade - eating and drinking without drive-in or curb service if that service, if that portion of said building or premises actually used or arranged, designed or intended to be used for retail trade - eating and drinking without drive-in or curb service is located
  1. Within one thousand (1,000) feet, measured by a straight line as established by the Town Plan and Zoning Commission, from that portion of any other building or premises actually used or arranged, designed or intended to be used for the same or similar purpose; except that the Town Plan and Zoning Commission may, in its discretion and for good cause in the case of a comprehensive Plan of Development with due consideration to vehicular traffic movement, pedestrian safety and overall site layout, waive this particular distance requirement.
- b. Food service shall be primarily to customers seated at tables or at counters within a closed building.
- c. ~~There shall be no window counter service, outdoor seating or eating at or on the premises, except that the Town Plan and Zoning Commission may in its discretion and for good cause in the case of a comprehensive Plan of Development with due consideration for litter, public health, insect pests and overall site considerations, permit an outdoor café with service to customers seated at table only as an accessory use to a retail trade eating and drinking facility.~~
- d. Take-out service or food to be consumed off the premises shall be permitted as an accessory use.

- Remove requirement to obtain special permit for outdoor dining in PBD and PT zones to comply with new legislation
- New outdoor dining as accessory use regulations would govern





# Temporary Outdoor Dining Permit Experience

- Flynn's Grille, 875 Main Street
  - Indoor permitted seats – 36
  - Temporary permit enabled 5 tables (2-top) occupying 3 parking spaces
  - 20% of permitted indoor seating = 7 seats





# Temporary Outdoor Dining Permit Experience

- Spicy Green Bean, 103 New London Tpke.
  - Indoor permitted seats – 66
  - Temporary permit enabled 10 tables (half 4-top, half 2-top) occupying 11 parking spaces
  - 20% of permitted indoor seating = 13 seats







# Temporary Outdoor Dining Permit Experience

- Cotton Hollow Kitchen, 840 Main St.
  - Indoor permitted seats – 137
  - Temporary permit enabled 10 tables (4-top) occupying rear parking area – 15 parking spaces
  - 20% of permitted indoor seating = 27 seats







# Discussion of Outdoor Dining Regs





# ASDRC Related Revisions - Background

- Architectural and Site Design Review Committee (ASDRC) recently established with adoption of Town Center Village District (TCVD) zone – to be comprised of architects, landscape architects, and urban designer/ planners
- ASDRC tasked with reviewing projects in the TCVD for compliance with design standards that will be developed this year; in the meantime, ASDRC will review against criteria in the TCVD regulations
- During public hearings on adoption of TCVD, discussion around potential role of ASDRC beyond the TCVD and future of the Town Beautification Committee
- The following proposed revisions intend to have the ASDRC provide consolidated advisory review on site, architecture and landscape design for commercial and multifamily projects, replacing functions that had been carried out by the Beautification Committee and Plans Review Subcommittee



# ASDRC Related Revisions - Background

- Town Beautification Committee's purview, per Town Code of Ordinances:

## **Sec. 2-112. Duties.**

The community beautification committee shall establish goals and determine methods for the enhancement of scenic beauty in public areas. Its activities shall include, but not be limited to, the acceptance of gifts of funds or landscaping materials on behalf of the town, the encouragement and direction of the efforts of private groups of individuals, coordination of private and public activities, the setting of standards for and approval of plans of landscaping, and promotion of comprehensive plans for landscaping of public areas. It shall make periodic recommendations to the town council and other appropriate agencies on the subject of community beautification.

(Code 1960, § 1193; Ord. of 11-28-66)

- The Zoning Regulations only delegate two reviews to the Beautification Committee: Planned Area Development and Adaptive Redevelopment Zone projects
- Practice has been for Beautification Committee to review all Special Permit applications



# ASDRC Regulations Draft

- Proposed change to Section 4.12.4 (b) 22 (Planned Area Development – Procedure and Application)
  22. A statement from the ~~Community Beautification Committee~~ Architectural and Site Design Review Committee on the adequacy and design of proposed site layout, architecture, and planting and landscaping plans and implementations program thereof.
  
- Proposed change to Section 4.17.3 (20) (Adaptive Redevelopment Zone – Procedure and Application)
  20. A statement from the ~~Community Beautification Committee~~ Architectural and Site Design Review Committee on the adequacy and design of proposed site layout, architecture, and planting and landscaping plans and implementations program thereof.

These two changes replace Beautification Committee with ASDRC and clarify that ASDRC will look at site, architecture and landscaping design



# ASDRC Regulations Draft

- Proposed change to Section 4.13.6 (g) (Town Center – Design Standards)

## g) Design Standards

As part of Development Plan approval the applicant shall demonstrate to the Plan and Zoning Commission ~~that how the design standards outlined in the Glastonbury Center 2020 Shared Vision Plan have been incorporated into the Development Plan. These standards shall~~ the project appropriately includes the use of distinctive paving materials; incorporation of trees, shrubs and seasonal plantings; placement of street furniture; and use and placement of appropriate lighting fixtures.

Where parking areas are contiguous with adjacent parking areas, whether within the same or different ownership, no fencing, screening, shrubbery or other barrier shall be used to prevent the movement of vehicles from one parking area to another.

The 2020 Shared Vision Plan design standards only address streetscape elements: paving materials, trees and plantings, street furniture, lighting and signage. Suggestion is to remove reference to 2011 plan as the ASDRC will review these streetscape elements and more as part of its review of Special Permit applications in accordance with other proposed changes. Also, proposed change seeks to avoid any confusion with anticipated TCVD Design Guidelines.





# ASDRC Regulations Draft

- Proposed change to Section 4.19.7 (TCVD – ASDRC)

g-h. In addition to applications subject to the provisions of this Section, the ASDRC shall review all Special Permits with Design Review for Multi-Family, Commercial, Office and Industrial projects in the F, PBD, PC, PE, PT, TC, TCMU, VC and VR Zones and applications for all projects in the ARZ, and PAD zones. As set forth in Section 12 of these regulations, the ASDRC shall provide an advisory report with recommendations to the Town Plan and Zoning Commission on the adequacy and design of the project's site layout, architecture, landscaping, screening, signs, and lighting.

Expands purview of ASDRC to review commercial projects in other zones on an advisory basis.



# ASDRC Regulations Draft

- Proposed change to Section 12.1 (Special Permit with Design Review-Authorization for Special Permit with Design Review Approval)

## Section 12 Special Permit with Design Review Approval

### 12.1 Authorization For Special Permit With Design Review Approval

The Town Plan and Zoning Commission is authorized to grant a special permit with design review approval for the purpose of meeting the provisions of this section and these Regulations. Prior to review by the Commission, the Architectural and Site Design Review Committee shall review each application for a special permit with design review in accordance with Section 4.19.7(h) and provide an advisory report with recommendations as to the adequacy and design of the project's site design, architecture, landscaping, screening, signs, and lighting.

Reiterates and refers back to expanded purview of ASDRC established in proposed changes to Section 4.19



# Discussion of ASDRC Related Regs







# Cannabis Moratorium Revisions - Background

- Potential loophole identified in language adopted in the fall
- Because cannabis establishment applications are site plan approval, which have a mandatory receipt and approval timeframe under state law (approved after 65 days, if no action taken), change the language to prohibit approval rather than receipt of applications during the moratorium
- Town attorney reviewed and agreed with change



# Cannabis Moratorium Revision Draft

- Proposed change to Section 3.27 (c) (Cannabis Establishments Temporary and Limited Moratorium - Applicability)

c) Applicability. During this temporary and limited-term moratorium, cannabis establishments shall be prohibited in the Town of Glastonbury and no applications shall be ~~re~~re~~ee~~e~~i~~i~~ap~~ap~~pr~~pr~~o~~o~~v~~v~~e~~ed by the Town Plan and Zoning Commission or the Office of Community Development to establish a cannabis establishment.



# Discussion of ASDRC Related Regs

