



General Assembly

February Session, 2022

Raised Bill No. 5271

LCO No. 1580



Referred to Committee on PLANNING AND DEVELOPMENT

Introduced by:
(PD)

AN ACT CONCERNING THE PROVISION OF OUTDOOR FOOD AND BEVERAGE SERVICES AND OUTDOOR DISPLAYS OF GOODS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1 of special act 21-3 is amended to read as follows
2 (*Effective from passage*):

3 (a) As used in this section:

4 (1) "Applicable laws of the state" means chapters 14, 97a, 98, 124, 126,
5 242 and 541 of the general statutes, section 22a-27j of the general statutes
6 and any special act, municipal charter, ordinance, resolution or
7 regulation;

8 (2) "COVID-19" means the respiratory disease designated by the
9 World Health Organization on February 11, 2020, as coronavirus 2019,
10 and any related mutation thereof recognized by the World Health
11 Organization as a communicable respiratory disease;

12 (3) "Food establishment" means a food establishment that is licensed
13 or permitted to operate pursuant to section 19a-36i of the general

14 statutes;

15 (4) "Local enforcement official" means a zoning enforcement officer,
16 or such officer's designee, or building official, or such official's designee;

17 (5) "Municipality" has the same meaning as provided in section 8-1a
18 of the general statutes; and

19 (6) "Outdoor activities" means outdoor food and beverage service or
20 outdoor displays of goods for sale. "Outdoor activities" shall not include
21 live entertainment.

22 (b) Notwithstanding the provisions of section 8-3b of the general
23 statutes, for the period commencing on [the effective date of this section]
24 March 31, 2021, and ending [March 31, 2022] April 30, 2023, if a zoning
25 administrator, chairperson of a zoning commission or planning and
26 zoning commission or chief elected official of a municipality finds that
27 a proposal to establish or change a zone or regulation to expand or
28 permit outdoor activities is necessary to respond to or provide economic
29 recovery from the COVID-19 pandemic, such zoning administrator,
30 chairperson or chief elected official may place such proposal on the
31 public hearing agenda of the zoning commission or planning and
32 zoning commission, as applicable, and such commission shall conduct
33 a public hearing and act on such proposal without the need to comply
34 with the requirements of said section of the general statutes.

35 (c) (1) Notwithstanding any provision of the applicable laws of the
36 state, for the period commencing on [the effective date of this section]
37 March 31, 2021, and ending [March 31, 2022] April 30, 2023, any person
38 making a permit application to engage in outdoor activities shall make
39 such application to a local enforcement official, who shall review and
40 make a determination on each such application. If such outdoor
41 activities will occur on a state highway right-of-way, an additional
42 permit application shall be made by such person to the Department of
43 Transportation pursuant to chapter 242 of the general statutes. No local
44 enforcement official shall impose a fee for a permit application under
45 this subsection.

46 (2) Notwithstanding any provision of the applicable laws of the state,
47 for the period commencing on [the effective date of this section] March
48 31, 2021, and ending [March 31, 2022] April 30, 2023, any person who
49 makes a permit application to a local enforcement official to engage in
50 outdoor activities shall not be required to submit (A) plans stamped by
51 a licensed engineer, landscape architect or architect, (B) a site survey,
52 (C) a parking plan, (D) a traffic study or plan, (E) a sign plan, (F) a soil
53 erosion and sediment control plan, (G) a photometric lighting plan, or
54 (H) a stormwater management plan, provided such person submits, at
55 a minimum, a (i) drawing or illustration, roughly to scale or
56 dimensioned and depicting with reasonable accuracy the outdoor area
57 proposed to be used and what is proposed to be placed, built or erected
58 in the outdoor area, and (ii) written narrative describing any noise,
59 waste management, odor, light pollution or environmental impacts
60 expected in such outdoor area as a result of such outdoor activities and
61 an explanation of how such impacts will be mitigated. The local
62 enforcement official reviewing such application may require an
63 applicant to submit additional information that such officer deems
64 necessary to protect public health, safety or the environment, provided
65 such officer shall consider the need for expedited review of such
66 applications.

67 (3) Notwithstanding any provision of the applicable laws of the state,
68 for the period commencing on [the effective date of this section] March
69 31, 2021, and ending [March 31, 2022] April 30, 2023, each local
70 enforcement official shall approve, approve with conditions or reject
71 any application for outdoor activities and notify each applicant of such
72 decision in a manner prescribed by the local enforcement official not
73 later than (A) ten days after the receipt of such application, or (B) ten
74 days after the receipt of any additional information requested by the
75 local enforcement official pursuant to subdivision (1) of this subsection.
76 The failure of any local enforcement official to provide such notice shall
77 be deemed to be an approval of such application.

78 (4) Notwithstanding any provision of the applicable laws of the state,
79 for the period commencing on [the effective date of this section] March

80 31, 2021, and ending [March 31, 2022] April 30, 2023, if a local
81 enforcement official approves with conditions or rejects an application
82 pursuant to subdivision (3) of this subsection, the applicant may appeal
83 such decision, not later than seven days after the receipt of notice of such
84 decision, to the zoning commission, planning and zoning commission
85 or chief elected official of the municipality, as applicable. A public
86 hearing shall not be required for any such appeal.

87 (5) Notwithstanding any provision of the applicable laws of the state,
88 for the period commencing on [the effective date of this section] March
89 31, 2021, and ending [March 31, 2022] April 30, 2023, nothing in this
90 subsection shall affect an individual's right to submit a complaint to any
91 relevant municipal authority or the right of any such municipal
92 authority to enforce conditions or requirements associated with
93 permitted outdoor activities, impose fines or issue notices of violations
94 or cease and desist orders.

95 (d) Notwithstanding any provision of the applicable laws of the state,
96 for the period commencing on [the effective date of this section] March
97 31, 2021, and ending [March 31, 2022] April 30, 2023, any person
98 permitted to engage in outdoor activities may engage in such activities
99 (1) on public sidewalks and other pedestrian pathways abutting the area
100 permitted for principal use and on which vehicular access is not
101 allowed, (A) provided a pathway (i) is constructed in compliance with
102 physical accessibility guidelines, as applicable, under the federal
103 Americans with Disabilities Act, 42 USC 12101, et seq., as amended from
104 time to time, and (ii) such pathway extends for the length of the lot upon
105 which the area permitted for principal use is located, is not less than four
106 feet in width, not including any area on a street or highway, and remains
107 unobstructed for pedestrian use, and (B) subject to reasonable
108 conditions imposed by the municipal official or agency that issues right-
109 of-way or obstruction permits, (2) on off-street parking spaces or
110 parking lots associated with the permitted use, notwithstanding any
111 municipal ordinance establishing minimum requirements for off-street
112 parking, (3) on any lot, streetface, yard, court or open space abutting, or
113 noncontiguous lot that is not more than one lot, streetface, yard, court

114 or open space removed from, the area permitted for the principal use,
115 provided (A) such lot, streetface, yard, court or open space is located in
116 a zoning district where outdoor activities are permitted, (B) such use is
117 in compliance with any applicable requirements for access or pathways
118 pursuant to physical accessibility guidelines under the federal
119 Americans with Disabilities Act, 42 USC 12101, et seq., as amended from
120 time to time, and (C) such person obtains written authorization to
121 engage in such outdoor activities from the owner of such lot, streetface,
122 yard, court or open space and provides a copy of such authorization to
123 the zoning commission, and (4) until eleven o'clock p.m. on Friday and
124 Saturday and nine o'clock p.m. on all other days of the week, or until
125 times established by the zoning commission, planning and zoning
126 commission or chief elected official of the municipality, as applicable,
127 whichever is later.

128 (e) (1) Notwithstanding any provision of the applicable laws of the
129 state, for the period commencing on [the effective date of this section]
130 March 31, 2021, and ending [March 31, 2022] April 30, 2023, the
131 Department of Transportation may allow any person to engage in
132 outdoor activities on a nonvehicular portion of a state highway right-of-
133 way, provided the department establishes any conditions on such use,
134 as deemed necessary by the Commissioner of Transportation.

135 (2) For the period commencing on [the effective date of this section]
136 March 31, 2021, and ending [March 31, 2022] April 30, 2023, outdoor
137 activities shall be considered a special event for the purposes of section
138 14-298-262 of the regulations of Connecticut state agencies.

139 (3) Notwithstanding any provision of the applicable laws of the state,
140 for the period commencing on [the effective date of this section] March
141 31, 2021, and ending [March 31, 2022] April 30, 2023, any municipality
142 shall request a special event permit from the Department of
143 Transportation before closing any part of a vehicular portion of a state
144 highway right-of-way for outdoor activities, in accordance with the
145 provisions of section 14-298-262 of the regulations of Connecticut state
146 agencies. The Department of Transportation shall expedite its review of

147 any such request.

148 (4) Notwithstanding any provision of the applicable laws of the state,
149 for the period commencing on [the effective date of this section] March
150 31, 2021, and ending [March 31, 2022] April 30, 2023, any municipal
151 official having jurisdiction over local roads, in consultation with the
152 municipality's local traffic authority, may close a local road to permit
153 outdoor activities without conducting a public hearing, except that if
154 such local road is utilized as part of a public transportation route, such
155 official shall consult with the Department of Transportation.

156 (f) Notwithstanding any provision of title 30 of the general statutes
157 or any provision of the regulations of Connecticut state agencies, for the
158 period commencing on [the effective date of this section] March 31, 2021,
159 and ending [March 31, 2022] April 30, 2023, no entity that is licensed to
160 serve alcoholic beverages shall be required to obtain a patio or extension
161 of use permit to engage in outdoor activities, provided such entity: (1)
162 Complies with the provisions of this section, (2) complies with any rules
163 for outdoor dining, including, but not limited to, safety or social
164 distancing requirements issued by the Governor, the Department of
165 Economic and Community Development or other agency or entity
166 authorized by law or pursuant to an executive order, to issue such
167 requirements in response to the COVID-19 pandemic, (3) complies with
168 any municipal requirements related to outdoor dining or the sale of
169 alcoholic beverages that are consistent with the provisions of this
170 section, (4) complies with any provision of title 30 of the general statutes
171 or regulations of Connecticut state agencies regarding the prohibition of
172 the sale of alcohol to minors or intoxicated persons or regarding
173 restrictions on the times such entity may serve alcoholic beverages, (5)
174 complies with any rules in effect limiting or restricting the sale or
175 consumption of alcoholic beverages only to customers who consume
176 food on such entity's premises, (6) does not maintain an outdoor
177 consumer bar, as defined in section 30-62a of the general statutes, and
178 (7) does not provide live entertainment, unless such entertainment was
179 previously permitted in such entity's outdoor space or such entity
180 obtains permission from the applicable municipal official to provide live

181 entertainment, and the provision of such entertainment complies with
182 any relevant safety or social distancing requirements issued by the
183 Governor, the Department of Economic and Community Development
184 or other agency or entity authorized by law or pursuant to an executive
185 order, to issue such requirements in response to the COVID-19
186 pandemic.

187 (g) Any outdoor activity allowed pursuant to Executive Order No.
188 7MM of Governor Ned Lamont prior to [the effective date of this
189 section] March 31, 2021, shall be deemed approved and permitted in
190 accordance with the requirements of this section until [March 31, 2022]
191 April 30, 2023, without need for reapplication, (1) provided an
192 additional application shall be made for any expansion of a previously
193 approved outdoor activity, except if such expansion is solely related to
194 alterations to reduce the width of a pathway required pursuant to
195 subdivision (1) of subsection (d) of this section, provided such pathway
196 is not reduced to less than four feet in width, and (2) except that any
197 person engaging in a previously approved outdoor activity on a state
198 highway right-of-way who seeks to continue such outdoor activity after
199 April 19, 2021, shall make an application to the Department of
200 Transportation pursuant to chapter 242 of the general statutes to ensure
201 compliance with relevant federal requirements.

202 (h) Notwithstanding any provision of the applicable laws of the state,
203 nothing in this section shall alter or affect a nonconforming use or
204 structure or prohibit any person from seeking or obtaining approval for
205 engaging in outdoor activities pursuant to existing municipal zoning
206 regulations.

207 (i) For the period commencing on [the effective date of this section]
208 March 31, 2021, and ending [March 31, 2022] April 30, 2023, any
209 minimum requirement for off-street parking or requirement prohibiting
210 outdoor activities from taking place on parking lots shall not apply to
211 the extent required to allow outdoor activities alone or in conjunction
212 with any other activity authorized by law, executive order or municipal
213 regulations, including any activity required to enable the response to the

214 COVID-19 pandemic.

215 (j) The provisions of this section shall be liberally construed to
216 promote the continuation of outdoor activities, as permitted by
217 Executive Order No. 7MM of Governor Ned Lamont.

218 Sec. 2. (*Effective from passage*) Section 182 of public act 21-2 shall take
219 effect May 1, 2023.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	SA 21-3, Sec. 1
Sec. 2	<i>from passage</i>	New section

Statement of Purpose:

To extend the application of certain temporary provisions concerning the permitting of outdoor food and beverage services and outdoor displays of goods until April 30, 2023, and delay the application of certain permanent provisions concerning the permitting of outdoor food and beverage services until May 1, 2023.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]