

September 4, 2020

**TO: BOLTON PLANNING AND ZONING COMMISSION**

**REPORT ON ZONING REFERRAL Z-2020-71: Proposed zoning amendment pertaining to outdoor dining and pursuant to the 2020 Gubernatorial Executive Order 7MM.**

**COMMISSIONERS:** Receipt is acknowledged of the above-mentioned referral. Notice of this proposal was transmitted to the Policy and Planning Division of the Capitol Region Council of Governments under the provisions of Section 8-3b of the Connecticut General Statutes, as amended.

**COMMENT:** The staff of the Regional Planning Commission of the Capitol Region Council of Governments has reviewed this zoning referral and finds no apparent conflict with regional plans and policies or the concerns of neighboring towns.

The public hearing date has been scheduled for 9/9/2020.

In accordance with our procedures this letter will constitute final CRCOG action on this referral. Questions concerning this referral should be directed to Caitlin Palmer.

**DISTRIBUTION:** Planner: Andover, Glastonbury, Hebron, Manchester, Vernon, Coventry

Respectfully submitted,

Jennifer Bartiss-Earley, Chairman  
Regional Planning Commission

Brendan Malone, Vice Chairman  
Regional Planning Commission



Caitlin Palmer  
Senior Community Development Planner

**PROPOSED ZONING REGULATION AMENDMENT TO ALLOW EXTENSION OF OUTDOOR DINING:  
(Public Hearing set for Wednesday, September 9, 2020 via Zoom)**

*Any Outdoor Dining that has not been the subject of a zoning enforcement action or nuisance activity report, which is operating with a permit issued pursuant to 2020 Gubernatorial Executive Order 7MM, shall be permitted to operate until November 30, 2020, provided that such extension shall not be interpreted to create any nonconforming right, and further provided that the operation of the Outdoor Dining between the date of the suspension of the State's declared state of emergency and November 30, 2020, shall be deemed to be a complete and total waiver of any claim of nonconforming rights under any local, state, or federal legal authority.*

*The Zoning Enforcement Officer (ZEO) shall be authorized to suspend and/or terminate this extension upon a finding that weather or other change of conditions at a particular site constitute a nuisance or a risk to health or safety. The ZEO, with the concurrence of the fire marshal and public health authorities, shall be authorized to grant a further extension for no longer than fourteen (14) days for a particular site under the same conditions and limitations as the original authorization, if he is satisfied that the extension will not constitute a nuisance or a risk to health or safety.*

This amendment would allow continuation for those who are operating now without incident; the November date can be determined by the Commission. However, the second paragraph would allow those operating to take advantage of unusually good weather for a week or two, but also allow for the possibility that winter arrives early and presents a problem at a particular site. The Commission could then work on something more permanent over the winter if so inclined.

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BACKGROUND: As was discussed at the last PZC meeting, it is unclear whether there is an automatic extension allowed for Outdoor Dining Uses if the Governor's Executive Order (EO) is lifted. The Governor's Office did ask that we get the word out that expanded outdoor activities (including dining) under Executive Order 7MM IS still allowed, EVEN when indoor dining begins again. Outdoor activities are permitted as stated in 7MM for the duration of the emergency, and towns are not able to end it before that. However, as previously noted, towns can extend outdoor activities past that date by amending their own regulations.

Currently, we have four restaurants who have been approved under the EO for Outdoor Dining:

1. Georgina's
2. A Villa Louisa
3. Subway
4. Parkside Pizza

None of the four have been the subject of a zoning enforcement action or nuisance activity report.

**Comments from PZC:** It also allows them a bit of time to take down the installation without be in violation and be flexible until they know what the weather is like. I think some of the Manchester restaurants post whether they will have outdoor service based on the weather that day or the day before. Plus, December is usually a busy season for restaurants, with holiday parties, etc. and if they can squeeze another weekend out, with heaters or whatever, they could benefit from the extra capacity.