



# TOWN OF CHAPEL HILL

Town Hall  
405 Martin Luther King Jr.  
Boulevard  
Chapel Hill, NC 27514

## Legislation Details (With Text)

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**File created:** 5/28/2020      **In control:** Town Council

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**Title:** Consider Ordinance to Authorize the Town Manager to Permit Use of Public Sidewalks and Other Areas for Outdoor Retail and Restaurant Activity During the COVID-19 Pandemic State of Emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Staff Presentation, 2. Council Questions with Staff Response, 3. Emails from the Public, 4. AN ORDINANCE TEMPORARILY SUSPENDING CERTAIN ORDINANCES AND AUTHORIZING THE TOWN MANAGER TO PERMIT TEMPORARY MEASURES TO AID RETAIL AND RESTAURANT USE DURING THE COVID-19 PANDEMIC STATE OF EMERGENCY (2020-06-03/O-1) as Amended

Date	Ver.	Action By	Action	Result
6/3/2020	1	Town Council	enacted	Pass

### Consider Ordinance to Authorize the Town Manager to Permit Use of Public Sidewalks and Other Areas for Outdoor Retail and Restaurant Activity During the COVID-19 Pandemic State of Emergency.

**Staff:**

Laura Selmer, Economic Development Specialist  
Judy Johnson, Interim Director

**Department:**

Manager’s Office  
Planning

**Overview:** Staff have coordinated with stakeholders including the Downtown Partnership, Chamber of Commerce, and local businesses and believe the retail and restaurant community would benefit from less restrictive regulations on the use of sidewalks and other outdoor areas, temporary signage, and socially distanced events during the reopening of Chapel Hill as part of the COVID-19 pandemic response.

Expanding use of outdoor space along the public right of way and on private property for dining and other commercial activity affords businesses the opportunity to respond to restrictions currently in place on indoor seating and occupancy under State and local orders.

The proposed ordinance includes regulations to promote physical distancing and to address other concerns for public safety as a result of the use of public pedestrian areas for outdoor retail activity.

The proposed ordinance specifically authorizes closure of portions of public sidewalk along East and West Franklin Street between 205 East Franklin Street and Merritt Mill Road. The proposed ordinance would authorize the Manager to identify and permit closure of portions of other public sidewalks for these purposes as well.

☆ **Recommendation(s):**

That the Council enact the attached Ordinance to:

Authorize the Town Manager to issue permits to allow use of public sidewalk areas, public parking areas, and private sidewalk and parking areas for outdoor retail activity during State and locally established state of emergency regulations which restrict the capacity of retail establishments to operate at full capacity in their normal indoor spaces. This ordinance also authorizes the Town Manager to allow temporary signage for businesses to advertise they are open for business.

Such permits would be permitted, under this ordinance, subject to the private retail establishments receiving:

- a. all necessary permits from County and State licensing agencies,
- b. approval from the Fire Department of emergency access and building exits

Pursuant to the proposed ordinance, rules for outdoor operations for restaurants and retail businesses on private property would include the following:

- Each business must follow social distancing recommendations for spacing of tables, chairs and other furniture.
- Business operators are responsible for cleaning and sanitizing the outdoor areas.
- Items may be stored outdoors after hours at the business owner's risk.
- The Town reserves the right to order the business operator to remove outdoor dining or retail sales.
- Parking requirements (required by Special Use Permits or other agreements) may be reduced temporarily to accommodate outdoor operations.

Pursuant to the proposed ordinance, rules for outdoor operations for restaurants and retail businesses on public property and public sidewalks and other public right of way would include the following

- All new outdoor dining and retail uses must apply for a sidewalk dining permit and comply with the included terms and conditions. Businesses already sidewalk dining may expand their sidewalk dining as long as the guidelines in the Sidewalk Dining Permit Application and physical distancing are followed. Fees will be waived for Sidewalk Dining Permits while COVID-19 social distancing guidelines are in place. Questions and applications can be directed to [permits@townofchapelhill.org](mailto:permits@townofchapelhill.org) <<mailto:permits@townofchapelhill.org>>.
- In addition to the stated sidewalk dining guidelines, businesses shall follow social distancing guidelines for spacing of tables, chairs and furniture. Outdoor uses must maintain a minimum of six feet of public pedestrian walkway space (pedestrian path).

**Decision Points:**

- Authorize the Town Manager to temporarily permit expanded use of outdoor areas, including sidewalks, parking areas and other public and private and public outdoor spaces for dining, other retail activity, including additional temporary signage, subject to physical distancing and other standards as set out above and provided in the attached ordinance.

**Key Issues:**

- Increase economic vitality in Chapel Hill as businesses engage in phased reopening in accordance with State and County orders by temporarily easing restrictions.
- Encourage physical distancing by creating additional space for pedestrians and business patrons.

**Fiscal Impact/Resources:** Franklin Street lane closures will require renting safety cones and barriers and minor consulting fees to develop traffic management and implementation plan.



**Attachments:**

- Ordinance

**AN ORDINANCE TEMPORARILY SUSPENDING CERTAIN ORDINANCES AND AUTHORIZING THE TOWN MANAGER TO PERMIT TEMPORARY MEASURES TO AID RETAIL AND RESTAURANT USE DURING THE COVID-19 PANDEMIC STATE OF EMERGENCY (2020-06-03/O-1)**

WHEREAS, on May 20, 2020, North Carolina Governor Roy Cooper entered Executive Order 141, authorizing retail activity, including restaurants and retail establishments, to reopen with restricted indoor occupancy during the COVID-19 State of Emergency; and

WHEREAS, on May 21, 2020, Orange County Chair Penny Rich and Chapel Hill Mayor Pam Hemminger adopted local directives adding further restrictions on retail and restaurant indoor capacity; and

WHEREAS, the Town of Chapel Hill currently has ordinances and regulations in place allowing limited use of public sidewalk areas for retail restaurant seating and other commercial activities; and

WHEREAS, the Town has other ordinances and has issued development permits which establish minimum number of parking spaces and which would preclude the use of such spaces, on a temporary basis, for other purposes; and

WHEREAS, the Town Council finds that the restrictions on indoor retail and restaurant activity are reasonable for the public welfare and that temporarily allowing greater retail and restaurant activity outdoors on public and private open areas would be in the public interest and can, subject to regulation, be conducted in a manner that is consistent with public safety; and

WHEREAS, the Council believes that the retail and restaurant communities would benefit with relief during the reopening of Chapel Hill as part of the COVID-19 pandemic; and

WHEREAS, the Council and Town staff has been coordinating with stakeholders, including the Downtown Partnership and local business owners, to develop and coordinate opportunities for outdoor operations on private property and on public rights-of-ways; and

WHEREAS, the Council has been working to aid and assist the retail and restaurant to permit additional signage for businesses located within any nonresidential zoning district; and

WHEREAS, the Council believes that temporarily suspending certain Town ordinances to permit greater use of public sidewalks, outdoor public parking areas and other outdoor public and private areas for restaurant seating and commercial activity is in the public interest and would benefit the public welfare by enhancing economic activity.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill as follows:

**Section 1.** Notwithstanding any provisions of: Chapter 3 (Alcoholic Beverages); Chapter 11, Article IX

(Temporary Outdoor Activities in or Near Parking Lots or Public Streets); and Chapter 17, Article VI (Sale of Merchandise on Sidewalks, Public Streets); or any other provision of the Town's Code of Ordinances or Town-issued development permits to the contrary, the Town Manager is authorized to issue permits for the use of public sidewalk, public open spaces, public parking areas and private open spaces and parking areas for outdoor retail sales and restaurant service and seating and to allow temporary signage for businesses to advertise they are open for business provided:

1. all necessary permits from county and state health and alcohol regulatory agencies are in hand;
2. the specific locations have been approved by the Chapel Hill Fire Department for access and exits; and
3. any temporary signage meets otherwise applicable size standards for similar signage and does not block site-distance or otherwise interfere with pedestrian and vehicular safety; and
4. provisions are provided for pedestrian and vehicular separation and travel in the vicinity of areas closed to permit said retail and restaurant activities and are reviewed and approved by the Chapel Hill Public Safety and Traffic Engineering staff in accordance with plans for any lane closures approved by the Town and, if required, the North Carolina Department of Transportation..

This authorization shall include East and West Franklin Streets between 205 East Franklin Street and Merritt Mill Road. In addition, the Manager is authorized to identify and permit closure of portions of other public sidewalks along areas fronted by private dining and other retail operations provided the provisions of this ordinance are met.

Private open spaces and parking areas may be identified by the private property owners for the uses authorized by this ordinance subject to the standards set out in this Section and Section 3 below. Said private use shall be subject to issue of a special event permit by the Town.

**Section 2.** During the term of any State of Emergency (State or Locally-imposed) the Town Manager is further authorized to designate town off street parking lots or other town or private areas for same dining and sales purposes.

**Section 3.** Any authorized activity engaged in pursuant to this ordinance shall be subject to regulations which include, in addition to others which may be imposed at the reasonable discretion of the Town Manager, the following:

- A. For outdoor operations for restaurants and retail businesses on private property:
  - Each business must follow social distancing recommendations for spacing of tables, chairs and other furniture.
  - Business operators are responsible for cleaning and sanitizing the outdoor areas.
  - The Town shall not be responsible for any private property stored outdoors on public property and/or right of way during or after business operating hours.
  - The Town reserves the right to order the business operator to remove outdoor dining or retail sales if there is a material interference with public interest or violation of terms of this ordinance.
  - Parking requirements otherwise applicable under the Town's Land Use Management Ordinance and any permit issued thereunder may be reduced temporarily to accommodate outdoor operations.
- B. For restaurants and retail businesses on public sidewalks and rights-of-way:
  - Each business must follow social distancing recommendations for spacing of tables, chairs and other furniture.
  - Outdoor dining and sidewalk sales may only operate outdoors during hours that are consistent with the business operating hours.
  - Business operators are responsible for cleaning and sanitizing the outdoor areas.
  - Items stored overnight are at the business owner's risk.
  - The Town reserves the right to order the business operator to remove outdoor dining or retail sales

- All outdoor dining and retail uses must apply for a sidewalk dining permit and comply with the terms and conditions. (Fees will be waived for Sidewalk Dining Permits while this ordinance is in effect.)
- C. Outdoor uses can only be in areas where a minimum of six feet of public pedestrian walkway space (pedestrian path) can be provided.
  - No tables, chairs, umbrellas, merchandise racks, or other objects shall encroach into any area which is designated for use as pedestrian walkway.
  - Furniture, fixture, or equipment shall not be permanently affixed to the public sidewalk.
  - Access to fire hydrants, fire hose building connections for sprinkler systems, and building entrances and exits shall not be obstructed.
  - The Town Manager may order the business operator to remove outdoor dining or sidewalk sales if there is a material interference with public interest or violation of terms of this ordinance

**Section 4.** This ordinance shall remain in effect until July 31, 2020, and shall expire on August 1, 2020, at which point all of the previously effective regulations of the Town shall be in effect; provided however that if the University of North Carolina delays, prior to July 31, 2020, announces the delay the opening of the Fall Semester beyond its announced beginning date of August 10, 2020, to August 24, 2020 or later, this ordinance shall remain in effect until ten days prior to the amended announced opening of the Fall Semester.

This the 3<sup>rd</sup> day of June, 2020.

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**The Agenda will reflect the text below and/or the motion text will be used during the meeting.**

PRESENTER: Maurice Jones, Town Manager  
Laura Selmer, Economic Development Specialist

RECOMMENDATION: That the Council Authorize the Town Manager to temporarily permit expanded use of outdoor areas, including sidewalks, parking areas and other public and private and public outdoor spaces for dining, other retail activity, including additional temporary signage, subject to physical distancing and other standards as set out above and provided in the attached ordinance.