

# Comparison of Outdoor Dining Authorizations Under State Law (Updated)

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## Issue

This report updates OLR Report [2022-R-0060](#) by providing a brief comparison of the outdoor dining provisions currently in effect with those taking effect on May 1, 2023.

## Summary

Broadly, in 2021, the legislature authorized the continuation of outdoor retail and dining activities, as permitted by the governor's Executive Orders (EOs) ([SA 21-3](#)). The authorization took effect on March 31, 2021, and was originally set to sunset on March 31, 2022. Under 2022 legislation, the temporary authorization was extended by 13 months, until April 30, 2023 ([PA 22-1](#), § 1). Under this temporary authorization, if a business that is not already engaged in outdoor activities pursuant to an EO wants to commence engaging in outdoor activities, it must apply to the local zoning or building official, who will conduct an administrative review of the application. (Businesses that were already engaged in outdoor dining pursuant to a prior EO were generally allowed to continue doing so without reapplying.)

Another law, also passed in 2021, generally requires municipalities to allow outdoor dining operations in perpetuity, but subject to more local control, after the temporary authorization sunsets (originally passed in [PA 21-2, JSS](#), § 182, and codified at CGS § 8-1cc). Under these provisions, which were repealed and replaced with substantially similar provisions during the 2022 session, municipalities must allow outdoor dining as an accessory use to a licensed food establishment (e.g., restaurant or food market) ([PA 22-1](#), §§ 2 & 3, and [PA 22-118](#), § 206). A

municipality may require a business to submit to an administrative site plan review to determine whether the proposed outdoor dining use conforms with zoning requirements not contemplated by the law (e.g., regulations unrelated to providing pedestrian pathways and parking). Most of the provisions in the permanent authorization focus on ensuring outdoor operations do not impede pedestrian access. This law was originally slated to take effect on April 1, 2022, but as part of the 2022 legislation, was correspondingly delayed until May 1, 2023.

To continue operations after April 30, 2023, outdoor dining uses that commenced during the pandemic and that were not approved under the standard zoning approval process will have to seek local approval under the terms of the permanent authorization (or under the generally applicable zoning procedures).

Below, we compare the laws' key provisions.

**Table 1: Comparison of Outdoor Dining Laws**

Subject	SA 21-3, as amended by PA 22-1, § 1 (sunsets April 30, 2023)	PA 22-1, §§ 2 & 3, and PA 22-118, § 206 (takes effect May 1, 2023)
<b>Scope</b>	Both laws apply to outdoor dining, but the temporary authorization also authorizes outdoor retail uses	
<b>Impact of other state laws</b>	Both laws generally apply regardless of conflicting state or local laws or resolutions, but the temporary authorization overrides a narrower range of state statutes than the permanent authorization	
<b>Authorization</b>	Both laws require municipalities to allow outdoor dining as an accessory use, subject to an administrative review	
<b>Grandfathering</b>	Outdoor dining that was permitted pursuant to an EO is allowed to continue without reapplication, generally	Outdoor dining uses that commenced during the pandemic and that were not approved under the standard zoning approval process will have to seek local approval under the provisions of the permanent authorization
<b>Application and review process</b>	Contains extensive provisions on the application, review, and appeals processes (e.g., specifies no permit application fee may be charged; lists the types of information municipalities cannot require; contains an approval timeframe)	Specifies that municipalities can impose zoning requirements not included in the law itself  Does not outline an application or appeals process the way the temporary authorization does

**Table 1 (continued)**

<b>Subject</b>	<b>SA 21-3, as amended by PA 22-1, § 1 (sunset April 30, 2023)</b>	<b>PA 22-1, §§ 2 &amp; 3, and PA 22-118, § 206 (takes effect May 1, 2023)</b>
<b>Hours of operation</b>	Both laws broadly authorize outdoor dining to operate until a specified time, unless later hours are set locally (temporary authorization allows operations until 11:00 p.m. on Fridays and Saturdays and 9:00 p.m. on other days; permanent authorization allows operations until 9:00 p.m. on all days)	
<b>Using parking areas and other open spacing for dining</b>	Both laws remove minimum off-street parking space requirements for outdoor dining and, subject to certain conditions, allow this activity in parking lots, off-street parking spaces, and certain other open areas	
<b>Operations in noncontiguous lots</b>	Allows operations on an abutting or noncontiguous lot that is not more than one lot, streetface, yard, court, or open space away from the business	Only allows operations in a nearby lot, yard, court, or other open space if the land abuts the principal use
<b>Operations in the state highway right of way and closed roads</b>	Specifically allows, after obtaining Department of Transportation approval, outdoor dining in the state highway right-of-way  Specifically allows municipal officials to close a local road to allow outdoor dining	Not addressed
<b>Accessibility protections</b>	Both laws require compliance with the accessibility guidelines in the Americans with Disabilities Act and State Building Code when dining operations occur in pedestrian pathways and other open areas except off-street parking lots	
<b>Alcohol service</b>	Both laws allow alcohol permittees to serve alcohol as part of outdoor activities	
<b>Patio and extension permit</b>	If certain conditions are met, authorizes liquor permittees to forgo obtaining a patio or extension of use permit from the Department of Consumer Protection	Specifies that if operators are liquor licensees or permittees, then they must comply with applicable provisions of title 30 (i.e., the Liquor Control Act)
<b>Streamlined process for other related zoning changes</b>	Includes a provision creating a process for the zoning administrator, zoning commission chairperson, or chief elected official to expedite a public hearing on certain zone changes or zoning regulation changes	Not addressed

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