Interim Zoning Measures for the Pandemic Emergency
June 2020

Why Do This?

The current pandemic has created serious economic stress for businesses. Municipalities can offer fast and easy temporary changes to permitted uses that can help businesses weather the current situation and also protect the public interest. It is important that any changes made be supported by the businesses they are seeking to help.

How Can You Do It?

These changes can be adopted as “interim bylaws” under 24 V.S.A. § 4415. All the process that is required is one Selectboard hearing prior to adoption. Statute says that the municipality must be conducting studies, or have done so, or be holding hearings, or have done so, on a proposed bylaw or comprehensive plan or amendments thereto to support this change. The statute is not detailed as to what constitutes studies, but municipalities should have some form of conversation that such a change is needed. A public meeting between business owners, chambers of commerce, and the Selectboard during which members of the public would be able to ask questions would seem to qualify. The changes made by the interim bylaws must still achieve the purposes of the town plan and should also fit with the intent of the existing underlying zoning.

In order to meet the goal of ease in facilitating businesses addressing restrictions, it is suggested that changes to permits be handled by the Zoning Administrator/Administrative Officer without a hearing, but with the usual public notice and a notice to abutters so they can still appeal the permit should they have concerns.

What you might do.

Businesses may need to offer drive-through or drive-up services or take-out, expand seating arrangements, have different operating hours, create different lighting or signage, or even change their use slightly to offer more services. All of these changes can be bounded so that there are still rules in place, and so the potential negative effect of any changes is minimized. Interim bylaws still need to “protect the public health, safety, and general welfare and provide for orderly physical and economic growth.”

Businesses, and/or customers, may not want walk-in traffic. Many retail operations that typically would have shoppers browsing inside have temporarily gone to online or phone orders with pickup at the store. Some operations are also adding delivery services. The biggest effect of such changes could be new traffic patterns. This might happen entirely on the business site, or, also, in public rights-of-way. Changes to on-site parking, signage, or traffic circulation may be needed. Any use of the public right-of-way will require Selectboard/VTrans approval depending on who maintains the public right-of-way in question. The Agency of Commerce and Community Development worked with the Agency of Transportation to create a guidance document to help address these concerns, available at: https://accd.vermont.gov/content/interim-guidelines-use-public-highways-outdoor-eating-retail-and-public-gathering-spaces

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Expanded seating arrangements to handle social distancing may need more indoor or outdoor space. This is primarily a physical effect, but expanded outdoor areas may create noise issues, as well as impacts to traffic if some of the new outdoor area was previously parking or public right-of-way.

Businesses may need different hours in order to support altered operations, or to increase the time they are open as shifts may be staggered or their on-site customer limit may have been reduced. Differing hours could create noise and lighting issues for adjacent sites.

Lighting/signage may need to change for vehicle and pedestrian traffic management and safety, as well as to reflect any changes in the business itself.

Some business models may need to change their use so that their staff and facility can economically provide products or services. For example, an inn that loses lodgers might use their food service skills to become more of a restaurant or start renting bikes.

In all of these cases, public meetings among business owners and the Selectboard that encourage citizen engagement can address public concerns about these changes. Given the depth and breadth of the impacts of the pandemic on our businesses and society as a whole, this is an opportunity to work together to find solutions.

If you’d like further information or to discuss questions you may have, please contact John Bennett at johnbenn@windhamregional.org or 257-4547 ext. 110.