



AGENDA ITEM #: 20-55  
COUNCIL MTG OF: May 19, 2020  
FROM: Dave Caron, Town Administrator  
OFFERED BY: Economic Development Department  
PREPARED BY: Elizabeth Robidoux, Planning & Economic Development Assistant  
SUBJECT: Amendment to Chapter 134 to permit Outdoor Dining

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STAFF REPORT  
*Public Hearing 6-2-20*

#### PURPOSE:

Staff requests Town Council amend Chapter 134, Streets and Sidewalks, to create Article II, Outdoor Dining. The new Article would allow restaurants in the Town of Derry to establish outdoor dining in public rights of way (sidewalks).

#### TOWN ADMINISTRATOR COMMENTS

The Council is encouraged to support amendments to Chapter 134, Streets and Sidewalks by allowing outdoor dining in public rights of way. A public hearing is scheduled for June 2 after which the Council is requested to act affirmatively on the proposed Ordinance #2020-005.

#### BACKGROUND

The Economic Development Department has developed a permit process and guidelines for restaurants in the Town of Derry to allow them to offer seasonal outdoor dining. Permits would be required annually and would run from April 1 through October 15 of each year. The permits are issued by the Town Council, with review of the permit application and oversight from Planning, Code Enforcement, Health and Fire Prevention. The purpose of establishing the Ordinance is to promote economic vitality in the Town of Derry. This Ordinance is specifically for restaurants that wish to establish outdoor dining in the public rights of way (sidewalks). Restaurants wishing to establish outdoor dining on private lots will be required to follow the guidelines set out in this Ordinance, but the permits would be issued through the office of the Town Administrator.

#### DISCUSSION

The Outdoor Dining Ordinance allows restaurants to establish outdoor dining areas between April 1 and October 15. The application would initially be reviewed by the Planning Department to determine the application is complete. It would then be forwarded to Code Enforcement, Health, Fire Prevention, and the Police Department to obtain the necessary permits and reviews from those departments. A separate Outdoor Dining Design Guideline has been developed that lays out the required barrier design and type, seating area elements, access and circulation requirements and signage. The draft ordinance and design guidelines were reviewed by Fire Prevention, Health, Code Enforcement, and Planning and input from those departments has been incorporated.

FISCAL IMPACT

Existing restaurants in the Town of Derry will be able to expand their services to residents of Derry and the surrounding communities, which fosters economic development. There is an application fee of \$150.00 annually. There may be a small amount of revenue generated from inspection fees from Code Enforcement, Fire Prevention, and/or Health Department.

RECOMMENDED ACTION BY COUNCIL

Staff recommends that the Town Council amend Chapter 134 of the Town of Derry Code to add Article II, Outdoor Dining in Public Rights of Way.

RECOMMENDED MOTION

Please see Ordinance #2020-005.



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# ORDINANCE

## Number 2020-005

Amend Chapter 134 of the General Code to allow Outdoor Dining in  
Public Rights of Way

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WHEREAS, Section 5.1 of the Town Charter designates the Town Council as the governing and legislative body of the Town, and pursuant to Section 6.1, the Council shall legislate by ordinance; and

WHEREAS, there is a need to amend Chapter 134, Streets and Sidewalks, to allow for outdoor dining in public rights of way, predominantly sidewalks;

WHEREAS, this amendment would further promote economic development while maintaining public health and safety;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that Chapter 134 of the General Code, Streets and Sidewalks is hereby amended as attached.

This Ordinance shall take effect 30 days after its adoption.

Adopted: June 2, 2020

Attest:

X \_\_\_\_\_

Charles Foote, Council Chair

Date: \_\_\_\_\_

X \_\_\_\_\_

Daniel Healey, Town Clerk

Date: \_\_\_\_\_