



Date: October 18, 2021

To: Wanda S. Page, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Sara M. Young, AICP, Planning Director
Subject: Outdoor Seating Permit

Executive Summary

On July 1, 2020, City Council approved a temporary amendment to the Outdoor Seating provisions in the Durham City Code of Ordinances. The approved amendment temporarily amended Code Section 54-110 in order to expand the locations that eating establishments, restaurants, and private clubs may use to accommodate additional outdoor seating in response to the Coronavirus pandemic. Given the success of the program, and the community's desire to allow for additional outdoor seating, staff is seeking to incorporate additional flexibility in the ordinance permanently. This text amendment would also permit outdoor seating in the right-of-way, with limitations, in all other commercial zoning districts throughout the City.

Motion

To adopt an ordinance amending the Outdoor Seating Permitting in the City Code of Ordinances.

Background

Durham City Code Section 54-110, as currently adopted, permits restaurants, bars, and eating establishments to apply for a permit to use portions of the public right-of-way for seating for their business. This ordinance was originally adopted October 15, 2012. Since then, there have been as many as five outdoor seating permits issued in the downtown area at any given time. The program has been successful, and staff is aware of no significant issues stemming for these previously permitted outdoor seating areas.

On July 1, 2020, as a response to the Covid-19 pandemic, a temporary modification to this ordinance was adopted. This amendment allowed restaurants, eating establishments, bars, and private clubs to occupy additional sidewalk areas, on-street parking areas and City-owned parcels. The proposed text amendment would not allow the City-owned parcels to be used, but would allow for on-street parking to be used for seating, with limitations.

Issues and Analysis

The proposed expanded outdoor seating areas will allow businesses to implement social distancing precautions, as has been needed during the Coronavirus pandemic, but will also continue to contribute to a more vibrant and engaging public space moving forward. Under the existing regulations, businesses may apply for an outdoor seating permit for up to 25% of their indoor capacity, on an adjacent sidewalk. This amendment allows these restaurants and bars to provide outdoor seating up to 50% of the indoor capacity. The seating may be placed in

designated areas, with limitations. Outdoor seating areas that are located in on-street parking spaces will be required to be level with the existing sidewalk. Traffic barriers are to be provided by the individual business, and will be reviewed, inspected, and approved by Transportation and other appropriate departments.

There have been fifteen outdoor seating permits issued utilizing the temporary provisions. Four of these were issued for City-owned parcels, and subsequently will no longer be allowed as of October 31, 2021. There have been four restaurants that have been permitted to use on-street parking areas, under this proposed ordinance these seating areas would be allowed to continue, assuming the applicants provide their own barriers.

Since the adoption of the Temporary Outdoor Seating Ordinance, there have been no major issues identified by staff. The Transportation Department set up many loading zones near restaurants to expand their takeout service. These curbside pick-up zones will be discontinued and reverted back to on-street parking October 31, 2021. The alternative use of the on-street parking and other public spaces has been well received by residents, as demonstrated by the results of the attached survey. Downtown Durham Incorporated (DDI) conducted two surveys. One was completed by the general public, consisting mostly of Durham residents, but also including visitors to Durham, property owners, and employees of downtown businesses. The vast majority of respondents to this survey had a favorable opinion of the expanded outdoor seating, and would even be willing to see a decrease in on-street parking spaces. DDI conducted another survey of downtown street-level business owners that also confirmed support for the continuation of the more relaxed regulations. To further mitigate impacts to nearby street-level businesses, permissions are required from adjacent business and property owners. It is important to note that this ordinance amendment would allow these types of seating areas in City rights-of-way in all business districts.

Financial Impact

As a part of this request, the City will not be providing any equipment or materials to any of the businesses that obtain an outdoor seating permit. A \$260 application fee is required per the existing and previously adopted fee schedule. All applicable right-of-way closure fees will also apply. These fees are equal to those associated with on-street parking fees. Therefore, there is no anticipated negative financial impact from the adoption of this ordinance amendment.

Equal Business Opportunity Summary

This is a text amendment to the City Code of Ordinances. It was not reviewed by the Equity & Inclusion Department for compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting.

Contractor Workforce Diversity & Hiring Practices

Due to the nature of this agenda item, obtaining Contractor Workforce Diversity & Hiring Practices information is not applicable.

Staff Contact

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Attachments

Attachment A: City Code Amendment

Attachment B: Downtown Durham Inc. General Survey

Attachment C: Downtown Durham Inc. Street-Level Business Owners Survey