

Town of Freeport – Ordinance Chapter 60 - Enacted 05/19/20
Emergency Ordinance: Temporary Suspension of Certain Ordinance Standards
To Safely Accommodate Expanded Outdoor Business Activities due to COVID-19

Whereas, the Governor of the State of Maine declared a Civil State of Emergency due to the spread of the Coronavirus Disease (“COVID-19”) on March 15, 2020, which remains in effect, and

Whereas, COVID-19 is a communicable disease that is easily contracted through personal contact with infected individual in the community, and

Whereas, the Governor has announced a phased reopening plan intended to reduce the spread of COVID-19, which will likely include restrictions on indoor activities at many of Freeport’s businesses such as shops offices, and restaurants, and

Whereas, these businesses may find it beneficial to make temporary changes to their traditional operations to allow outdoor business activities, such as outdoor seating, outdoor sales areas, outdoor meeting areas, and additional outdoor signage to communicate business changes due to COVID-19, and

Whereas, the Town of Freeport expects significantly reduced numbers of visitors during the upcoming summer tourist season, which would create a corresponding economic hardship to many of its businesses, and which could be mitigated to some extent by allowing expanded outdoor business activities, and

Whereas, expanded outdoor business activities may also help to promote the public health and welfare, by allowing patrons of these businesses to observe social distancing guidelines by avoiding shopping or dining in close proximity to other patrons, and

Whereas, there are several sections within Freeport’s municipal ordinances that may prevent, restrict or delay some of these expanded outdoor business activities and modifications – including sections within the Sign Ordinance (Chap. 23), Design Review Ordinance (Chap. 22), and Zoning Ordinance (Chap. 21), and Building Code Ordinance (Chap. 11).

Whereas, Section 2.14 of the Freeport Town Charter authorizes the Town Council to adopt one or more emergency ordinances to meet a public emergency affecting the life, health, property or the public peace, and

Whereas, during this State of Emergency, the Town of Freeport must consider the welfare of its businesses while protecting the health and welfare of its citizens, and

Whereas, the temporary suspension of certain ordinance standards and restrictions governing outdoor business activities . is immediately necessary to protect the health, safety and welfare of businesses and their employees, and the patrons of those businesses, in light of the Governor’s current phased reopening plan which will allow a number of affected businesses .to reopen in a limited fashion on June 1st , 2020, and

Whereas, in light of the foregoing, the Town of Freeport Town Council deems it proper and necessary to temporarily suspend certain provisions of the Town’s code of ordinances relating to outdoor business activity for the purposes of allowing businesses to reopen or continue operating without undue hardship while also allowing for compliance with social distancing guidelines.

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Now therefore BE IT ORDAINED:

That for the time period from May 19th, 2020 until July 17th, 2020, unless this ordinance is repealed by the Town Council prior to July 17th, 2020, the following emergency exceptions to established ordinance provisions of the Town of Freeport shall be in effect, and shall apply to any existing business within the Town of Freeport, that is otherwise operating in compliance with all municipal ordinances and regulations in effect.

I. Chapter 23 - Sign Ordinance

- A) Temporary signs to support changes to the operations of business as a result of the COVID-19 pandemic shall be exempt from regulation under Chapter 23. This may also include additional signs needed for distance markers outside of establishments. Internally illuminated signs, signs with moving parts, and flag and/or feather style signs are not exempted from the regulations of Chapter 23. Signs must be located on private property and not project over the public right-of-way; unless permission is otherwise granted from the Town Council. No sign shall exceed 32 sf in size or 25 feet in height.
- B) To be exempted as described in section I (A) above, all signs must obtain a temporary activity permit from the Codes Office/Planning Department.

II. Chapter 21 - Freeport Zoning Ordinance, Section 501 - Temporary Activity

- A) Limits on number and length of outdoor sidewalk or tent sales described in this section shall be suspended for the duration of this Ordinance. In order to be exempted as described above, all merchandise and items used for the outdoor set-up (including but not limited to tables, tents, and retail fixtures) must be brought inside when the business is not open if they cannot be safely secured. This exception also applies to outdoor setups for tourist information centers.
- B) To be exempted as described above, all businesses conducting temporary outdoor sales must obtain a temporary activity permit from the Codes Office/Planning Department. No other land use approvals beyond a temporary activity permit shall be required for these uses.

III. Chapter 21 - Freeport Zoning Ordinance, Section 602 - Site Plan Review

- A) Temporary modifications to an existing business site required to conduct outdoor business activities will not require an applicant to amend their existing site plan through the formal Site Plan Review process, so long as no new permanent impervious cover is created. Outdoor business activities for the purposes of this section shall include outdoor sales areas and tent sales, outdoor seating for existing restaurants, outdoor seating space for carryout establishments (such as coffee, ice cream, and carryout food), and outdoor meeting space for offices and exercise classes, along with minimal new lighting as required for safety and ambiance of these activities.
- B) Existing businesses may conduct any of the outdoor business activities described in section II(A) above on the property owned by another so long as: 1) the underlying

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- outdoor business activity (restaurant, retail, office, etc.) is allowed in that zone and,
- 2) the applicant for a temporary activity permit described in section II (C) below shall provide written authorization for any proposed activities from the property owner. Any use of public property (including sidewalks and streets) for outdoor business activities shall require prior approval of the Freeport Town Council.
- C) To be exempted as described above, all businesses conducting temporary outdoor business activities described in section II(A) and II(B) must obtain a temporary . activity permit from the Codes Office/Planning Department. No other land use approvals beyond a temporary activity permit shall be required for these uses.
 - D) Any outdoor business activities conducted on a site abutting a residential site shall observe all building setbacks as required by the underlying zoning district.
 - E) Any tents, awnings, or temporary shelters utilized for purposes described in section II (A) and II (B) shall comply with applicable regulations of the State of Maine Fire Marshall's Office and the Town of Freeport's Fire Prevention Code.
 - F) The exemptions described in sections II (A) and II (B) shall apply to existing Freeport businesses only. New business locations must undergo all applicable land use reviews, including but not limited to site plan review, design review, building permit review, and sign permit review.

IV. Chapter 11 - Building Code Ordinance

- A) In the event of any conflict between the Freeport Building Code Ordinance and directives issued under executive order by the Governor regarding the requirement or availability of public restroom facilities, the requirements issued by executive order of the Governor shall prevail.

V. Chapter 22 - Design Review Ordinance

- A) A Design Review Certificate shall not be required for any of the temporary outdoor business activities described in Sections I, II, or III of this ordinance, so long as no permanent changes to the site or the building facades are proposed.

VI. Authority to approve use of public property for outdoor business uses

- A) The Town Manager shall be delegated authority to approve the temporary use of public property for purposes described above.