

**Approved by Board of Selectmen**  
**(April 10, 2017) Regulations for Outdoor Dining Licenses Utilizing Public**  
**Sidewalks**

The Board of Selectmen desires to encourage outdoor dining on public sidewalks in the Town of Belmont in a safe and orderly manner.

The following regulations shall apply for Outdoor Dining Licenses:

**Section 1 - Application**

1. Applications for Outdoor Dining Licenses utilizing public sidewalks shall be made to the Board of Selectmen by submission of an Application Form. The application will include the name, address, email address and telephone number of the owner of the building, proof of ownership, a lease or written approval of the property owner (if other than the applicant) for the use of the premises for the license period. The application shall be signed by the owner of the restaurant and shall be accompanied by a copy of the current Permit to Operate a Food Service Establishment issued by the Board of Health.
2. The application shall also include a professionally drawn plan and all supporting documents containing the information required in order to be able to make a decision as to the license and shall also include a plan for outdoor lighting if any is proposed.
3. The application shall include the total number of seats existing inside the premises and the total number of seats requested for outdoor seating. The Town of Belmont Zoning Bylaw allows up to 20 outdoor seasonal seats which will not count against the seating capacity allowed per any Special Permit, Variance or grandfathered total. A proposal for more than 20 seats requires a zoning review for parking requirements and may result in the need to modify a Special Permit previously issued by Zoning Board of Appeals or Planning Board or the need to apply for a new Special Permit.
4. Notwithstanding seating totals allowed under local zoning regulations, an establishment adding outdoor seats must meet the requirements of the Massachusetts State Plumbing Code for required types of bathrooms and number of bathroom fixtures for the total number of seats, both outdoor and indoor.
5. The License is revocable at will by the Town for any reason whatsoever upon written notice to the Licensee from the Town. The License Agreement shall stipulate that in the event of such revocation, the Licensee shall have no recourse or claim against the Town for such revocation whether by way of monetary charges, a suit in equity or otherwise.
6. Outdoor Dining Licenses shall be issued only to Common Victualers and will be issued only within a business zoning district within the Town, unless such a business shall exist and has pre-dated zoning or has been granted a variance to do business in a location that is not in a business or industrial zoning district.
7. Prior to the issuance of a license for outdoor dining on public sidewalks, the Board may require a review by the Community Development Director, Health Director, Police Chief and Fire Chief and proof that all necessary approvals, permits, and other licenses needed to operate have been issued.

8. Each application will be dealt with on a case by case basis. These guidelines are not intended to be a full list of issues to be dealt with by the Board but are guidelines to the Applicant.

### **Section 2 – Conditions for Sale and Service of Alcoholic Beverages**

1. The serving or consumption of alcohol on any public property is subject to approval under an Outdoor Dining License by the Board of Selectmen. Applicants who hold an alcoholic beverages license shall provide a detailed alcohol control plan/strategy as part of their Outdoor Dining License application packet. The alcohol control plan shall include what steps the manager shall take to ensure alcohol remains only on the licensed premises and within the confines of the enclosure required in Section 4. The applicant shall also submit the TIPS or alcohol server training certificates for all managers and servers as part of the application packet.
2. The seating within an outdoor dining area will be considered part of the currently permitted number of seats serving a restaurant or eating establishment.
3. Service of alcohol in outdoor dining areas must comply with all applicable laws, regulations, and orders, including the Board of Selectmen's regulations regarding the service of alcohol in restaurants and any license conditions.

### **Section 3 - Dimensional Requirements and Design Considerations**

1. A plan with measured dimensions must be submitted showing compliance with all dimensional requirements.
2. Placement of outdoor seating is limited to the area immediately in front of the business and immediately adjacent to the building or premises. Seating location must maintain a 4 foot minimum width of sidewalk (5 foot desired), or ½ the width of the available sidewalk, whichever is greater. Width of available sidewalk to be determined by measuring from face of curbing (or edge of accessible ramps or other sidewalk amenities such as planters, trash receptacles, benches, light poles, etc., when applicable) to building face. Placement of outdoor tables and chairs must meet the requirements of the Massachusetts Architectural Access Board Rules and Regulations.
3. Outdoor tables, seating and enclosures (if applicable) must be removed from public property between November 1 and April 1 and at such other times when weather or other conditions dictate.

### **Section 4 - Design Requirements**

1. Enclosures are required if alcohol is served where the amount of outdoor seating permitted exceeds eight seats, or where the Board of Selectmen otherwise require in approving an Outdoor Dining License.
2. No such enclosure may damage the public sidewalk. Perimeter treatments, umbrellas, furniture and trash receptacles shall be supplied by the applicant and shall be maintained in a safe and sanitary manner by the applicant. All perimeter treatments, umbrellas, furniture and trash receptacles shall not be affixed to or damage the public sidewalk and must be removed at the end of each season.

3. Enclosures shall consist of fences, railings or planters and should be easily removable from the sidewalk. The height shall be a minimum of 42 inches and be attractive, inviting, and maintain sightlines into and out of the outdoor seating area.
4. There shall be no impediments or obstructions to fire protection equipment such as alarms or sprinkler connections.
5. No signage is allowed in an outdoor seating area including on umbrellas or other associated elements.

#### **Section 5 - Standards for Operation**

1. Outdoor dining areas shall be considered as part of the restaurant and shall comply with Board of Health Regulations, including a prohibition of smoking in seasonal outdoor dining areas and only service animals being allowed in those same areas.
2. The licensee shall provide, maintain, and empty as needed, outdoor trash receptacles during the times that the licensed premises are open for business. All trash receptacles shall be covered and trash removed nightly.
3. Any furniture which is left on the public sidewalk which creates a problem such as vandalism, blown away or disturbed in any manner, the licensee shall be required to respond immediately to correct the situation or if the Town is required to respond, the licensee shall bear the costs of such.
4. Outdoor food preparation shall not be allowed unless approved by the Board of Health in accordance with their procedures and regulations.
5. The licensee shall be responsible for keeping the portion of the sidewalk subject to an Outdoor Dining License clean and free of dirt, dust and other debris from April 1 through November 1 of each year.
6. The Outdoor Dining License shall be considered annually and every license shall expire on December 31 of each year, subject to renewal. No facilities or furniture shall be placed on the sidewalk as part of the license except for the period between April 1 and November 1 of each year.
7. Within the period from April 1 to November 1, upon notification from the Department of Public Works that weather conditions or work to be performed on the property of the Town or by the Police Department for public safety purposes requires removal of the outdoor dining furniture, the applicant shall immediately remove all of its property associated with the Outdoor Dining License from the public property.

#### **Section 6 - Administrative Requirements**

1. If the license is approved by the Board of Selectmen the owner and operator of the restaurant shall sign a License Agreement and shall provide a Certificate of Insurance as required and shall pay the License Fee before issuance of the License and before commencement of any activities under the License.
2. The Licensee shall provide evidence of insurance as required by the Town Administrator and by State Statute. Such insurance shall cover the use of all equipment related to the premises related to the Outdoor Dining License. The Comprehensive General Liability Policy shall insure against all claims and demands for bodily injury and property damage with respect to the sidewalk dining facilities and services, and the Town shall be named as an "additional insured" in all policies of such insurance. The Licensee (and their heirs, successors and assigns in interest) shall

hold harmless, defend and indemnify the Town of Belmont and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under the Outdoor Dining License.

3. The Licensee shall comply with all applicable laws (including the sign portions of the Zoning by-laws), rules, regulations, and conditions of other licenses and permits.
4. The license fee shall be \$100 per year and shall be payable upon initial application for an Outdoor Dining License, and for annual renewal of the license.

In granting a License, the Board of Selectmen may impose such additional conditions as it determines to be appropriate.

*Adopted April 10, 2017*