



Town of Danvers

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Temporary Outdoor Seating & Use Regulations for Local Businesses Impacted by COVID-19

ARTICLE I – GENERAL

Section 1 - Purpose and Scope

The 2020 COVID-19 pandemic has caused not only a public health crisis; it has also triggered a worldwide economic crisis, resulting in a local Declaration of Emergency issued by the Town Manager in Danvers on March 18, 2020. Public health requirements for social distancing have placed new burdens and challenges on the business community to provide more physical space between customers and staff. To respond to the new social distancing requirements, and in light of the Declaration of Emergency, the Select Board has adopted these temporary outdoor regulations. These regulations will allow existing local businesses to utilize outdoor seating in parking lots, on-street parking spaces, sidewalks where previously approved (see attached map), or landscaped yard areas around their businesses to provide more space for their patrons. These regulations also intend to affect the use and access of all eligible retail establishments to public ways, parking areas and sidewalks. These regulations will be in effect until the Declaration of Emergency is rescinded.

Applications for modifications to existing permits and licenses, including but not limited to site plan approval, special permits, right of way occupations, alcohol licenses, common victualers licensing, and entertainment licenses, in response to COVID, will be reviewed by Town staff and shall be temporary and consistent with the terms of the Declaration of Emergency. In accordance with current Emergency Orders issued by the Governor and the ABCC, but notwithstanding any statutory authorization to the contrary, strict adherence to local bylaws may be altered or waived administratively as part of this process on a temporary basis.

Approvals of outdoor seating areas and other permitted uses of the public way are subject to change; operators may be required to work with the Town and abutting businesses to accommodate the greatest number of operators as possible. Final approval will be from the Town Manager. However, periodic reports from the Town Manager to the Select Board will be given on these applications, and a detailed record of all approved modifications will be maintained on the Town website: www.danversma.gov.

Section 2 - Temporary Seating & Parking

Due to the temporary nature of the reduced occupancy loads required by emergency regulations, the space within outdoor seating areas or other retail use will not be interpreted as an increase in the number of seats or square footage serving a restaurant, eating establishment, or other business, and will not be counted towards any off-street parking requirement.

Pursuant to the Governor's order, seating plans must be approved in Phase 2 of the State's Reopening Plan – please email them as soon as possible to econ101@danversma.gov.

Section 3 – Compliance and Appearance

All proposals must comply with any applicable Massachusetts Governor's orders, Massachusetts Department of Public Health orders, and local orders.

Proposed furniture, including trash receptacles, should be integrated into the design and materials with other outdoor elements. Public sidewalks or streets may not be damaged and ADA access must be maintained.

Outdoor seating areas under the control of individual license holders must be distinguished from their surroundings by some form of perimeter fence or barrier. The operator is responsible for daily cleaning and maintenance, managing all trash generated from outdoor seating areas; trash receptacles shall be provided by license holders. The area in and around approved outdoor seating areas shall be kept clean of food and trash.

Areas deemed common use (see attached map) shall be the responsibility of all operators utilizing such common use spaces.

The Town may consider requests for using on-street parking spaces for temporary uses associated with a COVID response plan. The Town does not guarantee the use of any on-street parking spaces for such uses.

These temporary regulations may allow the placement of outdoor tables and chairs, umbrellas, lighting, service equipment, perimeter fences, or barriers.

Section 4 - Alcoholic Beverages

In accordance with the current Emergency Order of the Governor and ABCC guidance, and notwithstanding any statutory authority to the contrary, the serving or consumption of alcohol outside of the premises of a duly licensed establishment to serve alcohol under these regulations is considered to be a temporary modification only and may be approved by Town staff, under authority delegated by the Board of Selectmen, only upon application, review and approval and only on a case by case basis. These temporary modifications are subject to the provisions detailed in *Guidelines for Extension of Premises to Patio and Outdoor Areas*, issued August 6, 2015 by the ABCC.

Section 5 – Protection of Public Health

To the extent that any provisions in these Regulations impose requirements or restrictions that are different from those imposed by the Governor or state agencies, the provisions that are most protective of public health shall prevail.

ARTICLE II - SUBMISSION AND APPROVAL OF APPLICATIONS

Section 1 - Application Procedure

Applications for modifications as described above must be submitted to the Office of Planning + Economic Development (contact information below). Electronic submissions are preferred provided hard copies are transmitted via regular mail subsequent to confirmation of receipt of electronic filing.

Section 2 – Application Requirements

Applications and modifications to existing licenses, permits, and approvals must include all identifying information of owner/manager/license holder and a narrative description of the proposal and should include neatly drawn plans, illustrations, or exhibits sufficient for staff to clearly understand the proposal. During the review process, staff may request additional information or modifications including new materials deemed necessary. When applicable, applications seeking the use of space within a right of way, proof of insurance, as described below, is required.

Section 3 – Insurance for the Occupation of Rights of Way

The Business Owner shall carry or require that there be carried Workers' Compensation Insurance for all employees and those of its contractors and subcontractors engaged in work at the licensed premises, per the State Workers' Compensation Laws. In addition, the Business Owner shall carry Comprehensive Public Liability and Property Damage Liability Insurance with limits as presently insured the licensed premises to cover the Business Owner and its contractors and subcontractors against claims due to accidents which may occur or result from operations permitted under these regulations. Such insurance shall cover the use of all equipment related to the provision of outdoor dining services or other permitted activity. The Comprehensive Public Liability and Property Damage Liability Insurance shall insure against all claims and demands for personal injury and property damage resulting from the sidewalk dining facilities and services or other permitted uses. The Town shall be named as an "additional insured" in all policies for such insurance, and the Business Owner shall furnish a certificate of insurance to the Town before commencing the permitted activities and services authorized under these regulations. Where such insurance is renewed or replaced, the Business Owner shall furnish the Town with a certificate of insurance evidencing the same.

Section 4 - Approval by Town Manager

Following a favorable recommendation from the Planning and Economic Development Director, in consultation with the Director of Inspectional Services, Public Health Director, Public Safety, and Town Clerk, and other departments, and in compliance with all other municipal bylaws or orders as determined by the Town Manager, or designee, the application shall be approved.

When applicable, upon approval by the Town for temporary occupations of a way, operators must sign a License Agreement which has been prepared for these purposes by Town Counsel.

ARTICLE III - AMENDMENTS

These rules may be amended by a majority vote of the members of the Select Board provided such amendment is presented in writing at a regular meeting and action taken thereof at a subsequent regular meeting.

ARTICLE IV - EFFECTIVE DATE

These rules were adopted at a regular meeting of the Select Board on June 9, 2020 and became effective as of that date.

Key contacts:

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