

**CITY OF TAUNTON**

**LICENSE COMMISSION**

**COVID-19 STATE OF EMERGENCY  
TEMPORARY OUTDOOR DINING PROGRAM  
RULES AND REGULATIONS**

**Section 1. Purpose and Scope.**

The City of Taunton License Commission is the licensing authority for common victuallers pursuant to M.G.L. c. 140, § 1 et seq. and establishments which serve alcohol pursuant to M.G.L. c. 138, § 12. In response to the limitations on indoor dining imposed in the Commonwealth of Massachusetts as a result of the COVID-19 public health emergency, the Commission is establishing this program to allow temporary outdoor dining areas during the time period that restaurants are not allowed to operate at normal occupancy. This program shall terminate on November 1, 2020, or when the public health emergency is over, , whichever occurs sooner.

This program is intended as a temporary measure in response to an emergency situation. Permanent site changes which would trigger Site Plan Review requirements under the City of Taunton Zoning Ordinance, as determined by the City Planner, or which would expand total restaurant seating beyond that which existed before the state of emergency, are not allowed under this program. Approval of an outdoor dining area temporarily under this program shall not constitute a precedent for permanent expansion of a premises and the Commission will have the discretion to reconsider an approval at any time.

Any Licensee granted a temporary expansion must abide by all rules, regulations, laws, advisories, and guidelines issued by local, state and federal government, including all social distancing requirements. These regulations may be amended at any time as the Commission deems necessary and licensees will be required to comply with any amendments.

Temporary outdoor dining areas will be authorized by the Commission based on these regulations. Applications will be approved on an expedited basis except as otherwise set forth herein.

**Section 2. Requirements for Temporary On-Site Outdoor Areas (non-alcohol).**

The requirements of this section shall apply to all temporary outdoor dining areas under this program. If the establishment seeks to serve alcohol in said areas, then the additional requirements of Section 3 of these regulations will also apply.

Design Criteria:

- a. The total occupancy (indoor and outdoor combined) cannot exceed the establishment's normal occupancy limit.
- b. The use of parking spaces for the outdoor dining area will reduce total occupancy by two seats for each space that is used.
- c. Any tent 120 sq. ft. or larger,

or other feature that requires Building Department approval must be so approved before the outdoor dining area is operational. At least 50% of the perimeter of any covered dining space must remain open and unobstructed by any form of siding or barriers at all times, as required by the Governor's COVID-19 Order No. 35.

- d. The outdoor dining area must comply with ADA requirements.
- e. Food preparation must occur inside the restaurant kitchen facility unless outdoor food preparation is specifically authorized by the Board of Health. Restrooms must be provided in accordance with Board of Health/Commonwealth of Massachusetts public health requirements.
- f. All state and local public health and operational requirements applicable to restaurants in connection with the COVID-19 state of emergency must be followed at all times.
- g. Normal vehicular traffic circulation cannot be impeded. Use of fire lanes is prohibited. Egress points and fire hydrants shall not be blocked.
- h. The establishment must comply with its normally permitted hours of operation.

**Documents Required:**

- a. Site Plan. A site plan depicting the scope and location of the proposed outdoor dining area and related facilities. The plan must show all barriers, seats, tables, trash receptacles, hand washing stations, tents, signs and other facilities. The plan shall label the number of seats, which shall not outnumber the seats lost indoors as a result of the emergency limits on indoor occupancy. For example, if a restaurant has lost 25 seats as a result of temporary occupancy limitations imposed by the Commonwealth, then no more than 25 seats may be included in the temporary outdoor dining area. The site plan must label dimensions and spacing, but does not need to be prepared by a professional surveyor or engineer.
- b. Occupancy Permit. A copy of the restaurant's occupancy permit must be supplied.
- c. Public Health Self Certification. Certifying on the application that the applicant will comply with all COVID-19 public health requirements as per state guidelines.

**Section 3. Additional Requirements for Serving Alcohol in Outdoor Dining Areas.**

If the establishment seeks to serve alcohol to patrons within the temporary outdoor dining area, then the following additional requirements apply:

- a. The applicant shall request a change in the description of the licensed premises to include the outdoor dining area on the ABCC Change or Alteration of Premises Form. The applicant must comply with the ABCC's *Guidelines for Extension of Premises to Patios and Outdoor Areas*, attached hereto as Exhibit A. The applicant must also submit a written statement describing how the sale and consumption of alcohol will be controlled in the temporary area. The Commission will approve the change in description administratively unless upon administrative

review there is a question as to whether the change in description is reasonable and proper within the meaning of M.G.L. c. 138, § 12. The Commission may in its discretion request the applicant to attend a meeting of the Commission before approving a change in description of the licensed premises. In considering the requested change in description, the Commission shall also follow any additional application process as required under Massachusetts law and regulations promulgated by the ABCC.

- b. Applications involving serving of alcohol will be subject to review by the Commission's Police Department liaison officer(s).
- c. Any license amended pursuant to these rules and regulations shall revert to its status prior to such amendment upon the cessation of the temporary outdoor dining area under these rules and regulations.
- d. The approval issued under these Rules and Regulations is for restaurant dining areas only. It does not authorize outdoor entertainment or outdoor special functions. Entertainment and special functions continue to require a special permit from the Commission.

#### **Section 4. Off-Site Seating Areas – City Sidewalks.**

- a. Authority. Pursuant to sections 258-1 through 258-11 of the City of Taunton Revised Ordinances, the Board of License Commissioners is authorized to regulate the operation of cafes on streets and sidewalks through the promulgation of appropriate rules, regulations and specifications. Pursuant to section 258-2 of said Ordinances, it shall be unlawful to sell, or offer for sale, any food or beverage on any street or sidewalk within the City without first obtaining a license therefore from the Board of License Commissioners of the City of Taunton. In these regulations a dining area for service of food and beverage on a city sidewalk is referred to as a "café" consistent with the terminology of the Ordinance.
- b. Sidewalks. The Commission will administratively approve the use of sidewalks for the service of food and beverages as a sidewalk café by restaurant establishments abutting such sidewalks, subject to the following requirements:

##### Design Criteria:

1. More than ½ of the sidewalk must be available for the general use of pedestrians, between the curblineline and the edge of said café nearest to the curblineline. (Ordinance § 258-3) Additionally a width of sidewalk compliant with ADA requirements must be left unobstructed.
2. All utensils, containers and material used must be non-glass (Ordinance § 258-3).
3. Establishments are not permitted to anchor furniture to the sidewalk with bolts, drill holes or to otherwise damage the sidewalk. Canopies or tents are not allowed. Umbrellas are allowed but must be secured by weighted

umbrella stands.

Documentation:

1. Plan. A plan must be submitted meeting the same requirements applicable to plans for on-site dining areas (see Section 2 of these Regulations).
2. Insurance. Proof of an insurance policy, issued by an insurance company licensed to do business in the Commonwealth, protecting the licensee and the City from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the license. Such insurance shall name as additional insured the City and shall provide that the policy shall not terminate or be cancelled prior to the expiration date without 30 days' advance written notice to the City. (Code § 258-3(B)(4)).
3. Board of Health requirements. The applicant shall certify that it will comply with all state and local public health requirements and that it possesses all necessary Board of Health approvals. (See Ordinance § 258-3(B)(3)).

Additional Requirements and Limitations:

1. Pursuant to Ordinance § 258-4, the License shall expire as of the last day of September
  2. Pursuant to Ordinance § 258-7(A)(2), within 15 minutes after the closing of the café, all furniture, utensils, containers, or any other materials used in the operation of the café or within the area used by the café must be removed from the sidewalk area, provided that any railing, flooring or other support or enclosure of the café may be allowed to remain on the sidewalk area if specifically permitted in the Board's approval of the sidewalk plans.
  3. Pursuant to Ordinance § 258-7(A)(3), no café shall remain open after 8:30 p.m. unless the Commission has approved a special permit for a special event.
  4. All other provisions of Ordinance §§ 258-1 through 258-11, as well as all other provisions of the state and local law shall govern the operation of the café.
  5. If alcohol is proposed, the area must be appropriately enclosed and all requirements of these regulations pertaining to the service of alcohol must be complied with. Service of alcohol must be reviewed and approved by the Commission.
  6. The Commission will obtain review of the proposed sidewalk location by public safety officials, including without limitation representatives of the police department, for public safety review and to ensure that the proposed location does not present public safety concerns.
- c. Other Off-Site Locations – Streets. Under Ordinance § 258-2 the Commission is authorized to approve locations on streets for cafes serving food and beverages. Approval of proposed street locations will be considered by the Commission but

will require review at a meeting of the Commission and input from public safety personnel and other municipal officials. Street locations are not eligible for expedited administrative approval under these regulations. Interested applicants may submit an application under this program and such applications will be scheduled for review at a meeting of the Commission.

- d. Other Off-Site Locations – City Parking Lots, etc. Other City-owned spaces such as parking lots, vacant lots, etc., may not be approved as temporary outdoor dining locations without authorization from the Municipal Council. Parties interested in such spaces should present a proposal for use of space to the Municipal Council. The License Commission will apply these Rules and Regulations to review license applications for use of locations approved by the Municipal Council.

### **Section 5. Submittal and Approval Process.**

Submittal. The approved form (attached hereto) and required documents shall be submitted either electronically via email or by hard copy to the Secretary of the Commission.

Departmental Review: Applications under these Rules and Regulations will be circulated via email to the City Planner, Board of Health, Building Department, and, if alcohol is involved, the Police Department liaison officer. For all applications administrative approval will occur after the City Planner communicates to the Commission that he has reviewed and approved the Site Plan. For applications involving alcohol the Commission will receive input of the Police Department liaison officer before issuing an approval. Copies to the Board of Health and Building Department are for informational purposes to those departments.

Approval. If the application is complete and meets all requirements of these Rules and Regulations, the Commission will approve the application administratively on an expedited basis. If the application is incomplete or does not meet all requirements of these Rules and Regulations, then the applicant will be notified of the deficiency and given the opportunity to re-submit the application or necessary documentation. If the proposed location presents public safety concerns the Commission reserves the right to require the applicant to appear at a meeting to review such concerns and to deny the application if such concerns cannot be adequately addressed.

The Commission may vote to authorize one or more members to administratively review and approve applications under these Rules and Regulations.

Disclaimer. The Commission reserves the right to deny applications for cause and also reserves the right to require applicants to appear at a meeting of the Commission before approving applications. Every effort will be made to approve applications administratively but the Commission reserves the right to review any particular application at a Commission meeting when deemed necessary by the Commission in its sole discretion. This program is intended as an accommodation for distressed businesses to address an emergency situation and is not intended to constitute a waiver of any of the Commission's authority to approve or deny seating areas for restaurants under its jurisdiction as licensing authority for common victuallers and

establishments that serve alcohol.

Increases in Indoor Occupancy During Emergency. As indoor seating is increased due to changes in state guidelines, the outdoor seating must be reduced so that total allowable occupancy is not exceeded. Total allowable occupancy means the listed occupancy on the occupancy permit minus two seats for each parking space taken out of service by the outdoor seating.

Filing Fees. No filing fees are being assessed as part of this program.

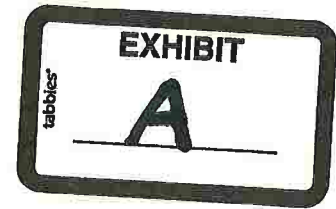
Non-Compliance. Non-compliance with these rules and regulations shall be grounds for revocation of any approval granted hereunder.

Effective Date. These rules were adopted by the License Commission on \_\_\_\_\_ and became effective as of said date.



Jean M. Lorizio, Esq.  
Chairman

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Alcoholic Beverages Control Commission  
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**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY REGARDING  
LOCAL LICENSING AUTHORITIES' APPROVAL OF OUTDOOR SEATING**

On June 1, 2020, Governor Charlie Baker issued an Order Clarifying the Progression of the Commonwealth's Phased Workplace Re-Opening Plan and Authorizing Certain Re-Opening Preparations at Phase II Workplaces, which, in part, details the process for reopening establishments for on-premises consumption. The text of the Governor's Order can be found [HERE](#).

When the Governor declares that the Commonwealth has entered Phase II of its reopening plan all licensees for on-premises consumption of alcohol may commence outdoor table service only. Indoor service will remain prohibited until further order from the Governor.

The Governor's Order also grants the local licensing authorities ("LLA") the authority to expand alcohol licensees' licensed premises for outdoor seating in an expedited process.

Pursuant to the Governor's Order, on application from a licensee that serves alcohol for on-premises consumption<sup>1</sup>, the LLA may alter the description of the licensee's licensed premises to expand for outdoor seating that the LLA deems "reasonable and proper." The LLA does not need to comply with M.G.L. c. 138, § 15A, and therefore does not need to provide advance notice to abutters or hold a public hearing on the application. LLAs must continue to follow the ABCC's guidelines issued in 2015 for the approval of outdoor seating, which can be found [HERE](#).

ABCC approval is not required on these applications. Upon approval from the LLA the LLA may issue the amended license forthwith. The LLA must provide notice by mail to the ABCC on all application approvals. For further guidance on the process of approving and issuing these amended licenses LLAs should consult with their counsel.

Please be aware that all expanded premises approved pursuant to this Order are only effective through November 1, 2020, or until the Order is rescinded, whichever is sooner, and revert to their original licensed premises on that date.

The ABCC continues to retain supervision and oversight of all alcohol licensees, including those that expand their licensed premises pursuant to this Order. As always, all licensees must ensure that they comply with the laws of the Commonwealth of Massachusetts, and that sales of

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<sup>1</sup> This includes restaurants, bars, hotels, general-on-premises, clubs, war veterans' clubs, continuing care retirement communities, pub-brewers (M.G.L. c. 138, §§ 12 and 19D), farmer-series pouring permits, and manufacturers' pouring permits (M.G.L. c. 138, §§ 19(b), 19B(n), 19C(n), and 19E(o)).

alcoholic beverages take place only as authorized by federal, state, and local law. All questions should be directed to Executive Director Ralph Sacramone at (617) 727-3040 x 731.

(Issued June 1, 2020)





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Alcoholic Beverages Control Commission  
239 Causeway Street  
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**Deborah B. Goldberg**  
*Treasurer and Receiver General*

**Kim S. Gainsboro, Esq.**  
*Chairman*

**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY REGARDING  
GUIDELINES FOR EXTENSION OF PREMISES TO PATIO AND OUTDOOR AREAS**

On July 28, 2015, at a public meeting, the Alcoholic Beverages Control Commission approved amendments to its "Guidelines for Extension of Premises to Patio and Outdoor Areas." These amended guidelines supersede the previously issued Guidelines from August 22, 1989. A copy of the amended Guidelines are attached to this Advisory.

As a reminder, all licensees must ensure that they are in compliance with the Laws of the Commonwealth of Massachusetts and that sale of alcoholic beverages take place only as authorized by applicable law. Questions concerning this Advisory can be directed to Ralph Sacramone, Executive Director of the Massachusetts Alcoholic Beverages Control Commission at (617) 727-3040 x 731.

(Issued August 6, 2015)



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*Chairman*

**GUIDELINES FOR EXTENSION OF PREMISES TO  
PATIO AND OUTDOOR AREAS**

1. Alcoholic beverages cannot be served outside of a licensed establishment unless and until an application to extend the licensed premises has been approved.
2. An application to extend the premises must describe the area in detail, including dimensions, seating capacity, and maximum occupancy.
3. The premises must be enclosed by a fence, rope, or other means to prevent access from a public walkway.
4. The outdoor area must be contiguous to the licensed premises with either (a) a clear view of the area from inside the premises, or, alternatively (b) the licensee may commit to providing management personnel dedicated to the area.
5. The applicant must have a lease or documents for the right to occupy the proposed area.
6. The licensing authorities should consider the type of neighborhood and the potential for noise in the environs.
7. Preferred are outdoor areas where alcohol is served to patrons who are seated at the tables and where food is also available.