

CITY OF BEVERLY
TEMPORARY OUTDOOR DINING GUIDELINES & PROCEDURES
2022

The City of Beverly is accepting applications for outdoor dining, consistent with state legislation in Section 27 of the Governor’s Supplemental Budget and the operational procedures established in 2020 and 2021 regarding temporary outdoor dining during the COVID-19 pandemic.

Businesses interested in using public sidewalk, public street or parking spaces, or private property to serve food and alcohol on a temporary basis shall use the procedures and guidelines enclosed herewith. Note: if you are interested in establishing permanent, long-term outdoor dining on private property, we strongly recommend you go through the normal procedures including a formal filing with the ABCC and the Beverly Department of Municipal Inspections; additional relief, such as for parking or zoning, may be required.

- A. Submit enclosed application by email to Darlene Wynne, Planning Director at dwynne@beverlyma.gov. Paper copies will also be accepted at City Hall, Planning Department, 3rd Floor
- B. Application will be circulated to the individuals listed below for review and approval. We will make every effort to expedite review. Approval is not granted until confirmation is sent by the City and the City Council has adopted the Ordinance amendment.
- C. Attend a briefing meeting in person at Beverly City Hall prior to receiving your permission to operate outdoor dining under this temporary program.
- D. Execute “Outdoor Dining License Agreement” with the City of Beverly, when City property is to be used for outdoor dining and forward insurance certificate. This license will be provided upon the City’s approval of your application.

REQUIRED APPLICATION DOCUMENTS

- I. **Basic Information** – fill out the attached form and include it with your submittal.
- II. **Plan** – submit a clear drawing showing the area you would like to use for outdoor dining that includes the following information and is consistent with the ABCC’s “Guidelines for Extension of Premises to Patio or Outdoor Areas”. **Actual measurements must be included.**
 - a. Dimensions of the public sidewalk, public parking area, or privately owned area you would like to use.
 - b. Distance between the entrance to your restaurant and the outdoor seating area.
 - c. Seating capacity and maximum occupancy under your existing permit.
 - d. Layout of tables and chairs, including table and chair dimensions.

- e. Photo or description of barriers to be used around the perimeter of the outdoor dining area (if not provided by the City). Examples are provided at the end of this document.
- f. Tents or Coverings. Coverings over sidewalks shall be strictly regulated. Use of tents anywhere requires approval of the Building Department. Umbrellas will be permitted upon review.

The outdoor dining area and barriers must be accessible and meet ADA and Massachusetts Architectural Access Board’s regulations. <https://www.mass.gov/library/521-cmr>. This information is also included in this guidance packet.

The following staff will review all applications and may be contacted for specific questions:

Name	Email Address	Contact for Questions About...
Martha Lewis, Licensing Clerk	mlewis@beverlyma.gov	Liquor licensing
Joe Reale, Health Department	jreale@beverlyma.gov	Sanitary Code/Food Safety
Darlene Wynne, Planning Director	dwynne@beverlyma.gov	Applications, Using public parking or other public property
Steve Frederickson, Building Inspector	sfrederickson@beverlyma.gov	ADA, accessibility, building capacity
Ryan Laracy, Fire Prevention Office	rlaracy@beverlyma.gov	Fire Safety
Police Dept Traffic Division		Public safety

- III. **General Standards** – Review and attest to complying with the City’s general standards and guidelines for outdoor dining (attached below). Include this with your submission.

BASIC INFORMATION

1. Business name:

2. Business address:

3. Business phone number:

4. Owner/manager:

5. Owner/manager email address:

6. 24-hour contact number (In case of issues outside of normal business hours):

7. Business hours of operation:

8. What is your licensed seating capacity as of March 1, 2020 (according to your Certificate of Occupancy)? _____

9. How many tables and chairs would you like to put in the outdoor dining area? _____

10. Will you be using umbrellas? YES NO

If YES, note that the minimum height of umbrellas must be 7' as measured from the base to the lowest point of the umbrella as it is open. Advertising is permitted only under these temporary conditions.

11. Will you be serving alcohol in the outdoor dining area? YES NO

If YES, contact Martha Lewis, License Board Agent at mlewis@beverlyma.gov or 978-605-2333 regarding the process to extend your premises to allow the sale and consumption of alcohol in the outdoor dining area.

12. Will you be using public property (e.g. sidewalk, parking space, or other) to serve food or sell product? YES NO

If YES, a license will be provided upon approval of your application.

Responsibilities of the Restaurant

The restaurant, through its owner and/or manager, is responsible for the following as it pertains to the use of the public sidewalk for outdoor dining:

1. Adherence to the plans and documents submitted, reviewed, and approved;
2. Procurement of tables, chairs, disinfecting stations, barrels, and any other physical items that will be inside the outdoor dining area;
3. Any optional aesthetic and safety improvements to the outdoor dining area beyond the barriers provided by the City of Beverly for parking spaces;
4. Maintaining a clean, safe, and ADA compliant area; and,
5. Providing evidence of liability insurance over the new dining space to the City.

Rights of the City of Beverly

The City of Beverly reserves the right to revoke its permission to allow the outdoor dining area, or amends these standard, for the following reasons:

1. The operation of the outdoor dining area is not in compliance with accepted safety protocols;
2. The operation of the outdoor dining area is negatively impacting pedestrian travel along the public sidewalk and/or public way and/or is not facilitating safe passage in accordance with Americans with Disability Act requirements.
3. The operation of the outdoor dining area is negatively impacting abutters or the general public in the vicinity for any other reason (not limited to noise, odor, etc.) and resolution cannot be reached.
4. The Health Agent, Chief of Police, and/or their designees determine that the operation of the outdoor dining area is negatively impacting public health and safety.
5. The City determines it is no longer in the best interests of the City.

Signature of applicant

Date

Print Name

GENERAL STANDARDS

1. Outdoor dining, when combined with indoor dining, **may not exceed** the establishment's regular capacity, as demonstrated on the Certificate of Occupancy, regarding relevant code compliance.
2. Execution of the "Outdoor Dining License Agreement" with the City of Beverly, in the case that public property is to be used for outdoor dining. All agreements executed in 2020 have been extended to align with the termination of the Commonwealth's State of Emergency plus 60 days.
 - a. Provide the City with proof of liability insurance, in the minimum amount of \$1,000,000 per occurrence combined single limit, covering the expanded outdoor dining space. Insurance Certificate shall cover any accident, injuries, or damage suffered on, about or within the premises including the outdoor seating area or as a result of the exercise of rights granted pursuant to this Permit. The Certificate of Insurance shall be in the name of the City of Beverly as an additional insured and furnished to the City prior to starting outdoor dining. All insurance must conform to the License Agreement.
3. Receive approval from the City of Beverly Licensing Board for the expansion of premises of an existing license if alcohol is to be served, if applicable.
4. Outdoor seating is for dining only. Food must be served with alcohol.
5. Outdoor Dining must be accessible and comply to Americans with Disability Act (ADA) and Massachusetts Architectural Access Board's regulations.
 - a. A minimum of 3' of accessible sidewalk area must be left open on the sidewalk, to allow for pedestrian and wheelchair passage. The Director of Municipal Inspections reserves the right to determine whether adequate space exists for the creation of an outdoor dining area or outdoor sales area.
6. Seating and service areas shall not obstruct accessible, safe, easy, and uninterrupted passage of pedestrians within the dining space or on the public sidewalks, unless explicit approval has been granted by the City in the event that a suitable accessible route exists.
7. Only battery operated candles may be used and no open flames of any type will be allowed under tents, per order of the Beverly Fire Department.
8. All furniture must be safely secured in a vandal proof manner or must be brought inside nightly. Tents may be subject to additional standards as reviewed by the Building Inspector and Fire Prevention Office.
9. Outdoor dining areas must be swept daily and kept free of trash. Trash barrels are permitted under this temporary order only; but must be removed from the public space daily. Restaurants are entirely responsible for the trash that accumulates in their outdoor dining space, regardless of its origination.
10. Sunday – Thursday, in outdoor dining areas, the last food order must be placed no later than 9:15 PM and all patrons and servers must leave the outdoor dining area by 10:00 PM. Outside music speakers and/or TV audio must be turned off by 9:00 PM. Depending on proximity to residential areas, earlier closing times may apply.
11. Friday and Saturday, in outdoor dining areas, the last order for food must be placed no later than 10:15 PM and all patrons and servers must leave the outdoor dining area by 11:00 PM.

Outside music speakers and/or TV audio must be off by 10:00 PM. Depending on proximity to residential areas, earlier closing times may apply.

12. No food preparation shall be done in the outdoor dining area without approval by the Beverly Health Department.
13. Establishments shall comply with all other applicable building, health, and public safety standards and will be monitored by appropriate City departments and agencies to ensure compliance.
14. Any changes to your plan, including the addition of service areas or capacity, shall be submitted to and reviewed by the City via the Planning Department, prior to implementing any changes. This does not include aesthetic changes such as furniture and signage.
15. The City will determine when it removes any outdoor dining barriers and will notify businesses one week in advance.
16. All establishments will be monitored by appropriate City departments and agencies to ensure they comply with the provisions of this policy.
17. Outdoor dining and retailer permits may be revoked by any appropriate City department for failure to comply with the provisions of this policy, or if the outdoor dining area becomes dangerous, unsafe, or inaccessible to handicapped persons, or any other breach of the permit conditions or non-compliance with city and state laws/regulations, at any time.

By signing below, I certify that I have read and understand the provisions listed above and I agree to comply with all the requirements of this permit and any attached plans which are mandated by the City of Beverly.

Signed and sealed this _____ day of _____ 2020.

Signature of Owner

For City Use:

- Application passed review by relevant City Departments. Attach any conditions.
- Business Owner and/or Manager attended an in-person training on the temporary outdoor dining program.

Date: _____ Name of Attendee(s): _____

Date Application Approved: _____

Signature of Planning Director

APPENDIX A: REQUIREMENTS FOR ACCESSIBILITY

Dining must be accessible and meet ADA and Massachusetts Architectural Access Board's regulations. <https://www.mass.gov/law-library/521-cmr>

521 CMR 17.00: RESTAURANTS

17.2 SEATING

At least 5% but not less than one, of the tables shall be accessible, be on an accessible route, and in compliance with the following:

17.2.2 A 36-inch (36" = 914mm) access aisle shall be provided between all accessible tables. No seating shall overlap the access aisle. See Fig. 17a.

17.2.3 Clear floor space as defined in 521 CMR 5.00: DEFINITIONS shall be provided at each seating space. Such clear floor space shall not overlap knee space by more than 19 inches (19" = 483mm). See Fig. 17a.

17.2.4 Knee Clearances: If seating for people in wheelchairs is provided at tables or counters, knee spaces at least 27 inches (27" = 686mm) high, 30 inches (30" = 762mm) wide, and 19 inches (19" = 483mm) deep shall be provided. See Fig. 17b.

17.2.5 Height of Tables or Counters: The tops of accessible tables and counters shall be from 28 inches to 34 inches (28" to 34" = 711mm to 864mm) above the finish floor or ground. See Fig 17b.

