



CITY OF CAMBRIDGE OUTDOOR DINING POLICY

For Years 2022-2023

Issued on November 9, 2021

I. Applicability

The City of Cambridge Outdoor Dining Policy (the "Policy") applies to new and existing restaurant businesses which are seeking to extend their licensed premises to an outdoor area (public, private or a combination of both). For purposes of this Policy, the outdoor area may be referred to as the "outdoor area," "outdoor dining area," or the "patio." **This does not apply to outdoor dining areas which were approved and are operating pursuant to temporary licenses and permits issued by the City in response to the COVID-19 pandemic, which expire on April 1, 2022.**

II. City's Right to Revoke

Obtaining approval from the City and all relevant permitting departments of the City to operate an outdoor dining area does not create a contractual or property right or interest. Businesses must ensure they are operating in a safe and responsible manner and must understand that any violations of any state, federal, municipal laws, rules and regulations, or of any agreement with the City may result in the immediate revocation of the license or other approval issued to operate the outdoor dining area.

It is important to note the layout and design of City streets change from time to time and this may impact the availability of space for patios. For example, the City's Cycling Safety Ordinance Amended 10/5/2020 mandates the installation of 25 miles of separated bike lanes in the next five to seven years, as well as other structural/design changes. As a result, the layout of many streets in Cambridge, including commercial corridors, will change. Streets that can currently accommodate in-street outdoor dining may not be able to accommodate it after the redesign. Wider streets may be able to accommodate in-street dining with a smaller footprint. If a street is designated for changes in the [Cambridge Bicycle Plan 2020](#) (published June 2021), permission for in-street dining may be granted on a year to year basis, with the understanding that dining will have to be removed within 30 days' notice, and there may or may not be space for in-street dining thereafter. The licensee is responsible for any applications that must be made to either remove or alter the in-street dining from its licenses and permits.

III. Location of the Outdoor Dining Area Relative to the Restaurant

The outdoor area in which a business may extend its premises for outdoor dining must be contiguous to the brick-and-mortar licensed premises. Contiguity is defined as adjacent and 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. For the latter, the area is still physically contiguous to the licensed premises but not visible, i.e., there are no windows, or the brick and mortar is in the

basement and the outdoor area is on the sidewalk. A patio that is on the curbside side of a sidewalk and/or in a parking/travel lane is contiguous. Parking lots, or back areas may also be considered contiguous.

IV. An Outdoor Dining Area in the Public Way (Public Sidewalk and Public Street)

- A. When considering a request for outdoor dining in a public area, the City will review and determine whether the request is in the public's interest. The public way includes the sidewalk and street. The factors the City will evaluate include, but are not limited to, safety considerations, the effect on surrounding businesses and residents, access considerations, provision of public space, parking considerations, access to utilities, and any upcoming construction or street changes. The City will reject the use of any public way for outdoor dining if a location is deemed unsafe for the use. The City may revoke a grant of the use of a public way and require the immediate removal of the dining setup if it is later deemed unsafe, an emergency situation arises, the business is not operating in accordance with all permits and licenses, or the City's and/or public need has changed.
- B. The outdoor dining season on the public way extends from April 1 through November 30. The City will be evaluating extending the outdoor dining season to determine the future of winter outdoor dining in the public way. If allowed, additional approvals, permits and fees will be required.
- C. An applicant must obtain all necessary permits/licenses and enter into all required agreements with the City. This may include: License from the Board of License Commissioners; Sidewalk Business Use Permit from Department of Public Works; Other Street Occupancy Parking Permit from Traffic, Parking, and Transportation Department; and Restaurant Patio License, Maintenance and Indemnification Agreement ("Indemnification Agreement"). All applications and permits have their own process and require specific documents from the applicant. All licenses and permits must be renewed yearly, and the Indemnification Agreement is renewed every two years, unless there are changes to the premises.
- D. Restaurants interested in extending into the parking lane will be allowed up to two contiguous parking spaces for patio use.
- E. In circumstances where outdoor dining areas extend in front of adjacent premises, applicants will need to send a notification to the owner and tenant(s)/occupant(s) (if occupied) of the abutting premises informing them of the intent to occupy the space. The required notification will have information on how the owner/tenant/occupant of the abutting premises can provide input to the City as to the application and will state that any input must be sent to the City within 14 days of the date of the notification. The applicant will need to submit an affidavit attesting that notice was provided to abutters together with a list of the persons noticed and a copy of the notification that was provided. Letters of support or opposition from the owner/tenant/occupant of the abutting premises may be considered by the relevant City departments when issuing permits and licenses. This process will be required every time a restaurant re-applies for the Indemnification Agreement, which is valid for a term of two years only.
- F. Restaurants looking to extend onto other City owned land (i.e., City owned parking lots) or looking for more than 2 parking spaces, will be considered on a case-by-case basis.

- G. There is a charge for the use of the public way. The City recognizes the ongoing financial impacts to the restaurant community and have set the annual fees for 2022 and 2023 accordingly:
1. For businesses serving alcohol on the public way, there is a \$750 annual fee in addition to related licensing and permits fees.
 2. For use of the public sidewalk or street there is annual fee of \$75 due to the Department of Public Works in addition to related licensing and permit fees (applies to alcohol and non-alcohol).
 3. For businesses extending into a parking/travel lane, there is an annual fee of \$250 per parking space due to Traffic, Parking and Transportation Department in addition to related licensing and permit fees.
- H. Restaurants that enter into an Indemnification Agreement in order to provide outdoor dining with alcohol on public sidewalks or streets are required to maintain certain insurance coverage. Specifically:
1. General Liability \$1m/occurrence + \$2m/aggregate, Assault & Battery cannot be excluded and shall be provided for the full policy limit; Liquor Liability \$1m/occurrence + \$2m/aggregate, Assault & Battery cannot be excluded and shall be provided for the full policy limit; Workers' compensation insurance \$500K/accident + \$500K/illness; Umbrella \$1m/occurrence + \$1m/aggregate.
 2. The Certificate Holder should be City of Cambridge, 795 Massachusetts Avenue, Cambridge, MA 02139.
 3. In the additional comments of the insurance certificate, the following language must be included: The City of Cambridge shall be named as an additional insured for each of the above insurance coverages (umbrella, liquor, and general liability). Assault and battery coverage shall not be excluded from either the general liability insurance or the liquor liability insurance and shall be provided for the full policy limits of each. Each policy shall provide for a 30-day notice of cancellation or non-renewal clause, including for non-payment. All of these provisions must be stated on the Certificate of Insurance.
- I. Any approved outdoor dining area must be removed at the expense of the licensee upon demand.
- J. Outdoor dining areas in the public way that are set up on the sidewalk or on the sidewalk in combination with seating in the parking lane must be curbside and access to utilities, utility access points, catch basins and manholes must be maintained throughout the seating area. In the parking lane, the gutter line must remain free of debris.
- K. The barrier between the patio and the roadway shall be temporary in nature and shall be limited in height. A solid barrier can be no more than 42 inches high. Additional barrier height may be added provided the material is clear/transparent and has been approved by the City. In certain instances, the City may require lower barriers for traffic or public safety purposes.
- L. Businesses looking to add additional height and/or a roof/canopy will need additional approvals including but not limited to:
1. A building permit from the Inspectional Services Department;
 2. Abutter notification; and
 3. Approval and sign-off from the Traffic, Parking & Transportation and Public Works Departments

- M. Any outdoor dining area in the travel/parking lane may be required to protect all sides of the patio facing the travel lane with jersey barriers or similar material.

V. Extending into a Private Area

- A. Extending into a private way may be possible if the proposed outdoor dining area is contiguous and the use is permitted under the Cambridge Zoning Ordinance. There are certain scenarios where it may be necessary to obtain zoning relief to conduct outdoor dining on private property. For example, if the outdoor dining area is located in a residential zoning district, if the outdoor dining area is located in off-street parking spaces that are required for the restaurant use pursuant to the Zoning Ordinance, and/or if the outdoor dining area does not comply with the Zoning Ordinance's dimensional requirements. Applicants with questions on zoning compliance should reach out to the Inspectional Services Department (617-349-6100 or ranjits@cambridgema.gov).
- B. If serving alcohol on a private area, there is a \$250 annual fee in addition to any other licensing and permit fees.

VI. Application Minimum Requirements – public/private way

- A. To ensure compliance with federal, state and municipal laws, and safety standards, an applicant must provide a stamped architectural/engineer floor plan of the outdoor dining area which includes: the location of the outdoor area in relation to the brick and mortar; all dimensions of the outdoor dining area (length, width and total square footage); clearly shows layout of the tables and chairs, including the distance (in dimensions) of the space between tables/chairs; location of the hostess stand (if applicable); the total seating capacity of the area (seating and standing); must show location of all barriers and identify the type of barrier proposed to be used (material, height, width and length); shows the pedestrian ways (sidewalk/street) and includes the width of the pedestrian way; identifies any existing sidewalk furniture, bike racks, utility access points, trees, manholes and catch basins in and around the proposed seating area and identifies compliance with all ADA requirements.
 - 1. Applicants are encouraged to include pictures or drawings of the barriers and furniture being used.
 - 2. Businesses that do not serve alcohol in the public way and are proposing less than 10 seats, can submit a floor plan that is not stamped by an architect/engineer.
- B. All outdoor dining areas in which alcohol is served shall be enclosed by a fence, rope, or other temporary barrier to prevent access from a public walkway.
- C. All applications for extension of the licensed premises go through an initial zoning review after being submitted. If there is a zoning issue, the applicant may have to submit a variance application to the Board of Zoning Appeals. Whether zoning relief is required will depend on case-specific factors including, but not limited to where the business is located, what type of use the restaurant is proposing to do in the space (whether public or private), and dimensional requirements that are required in the zoning code.
- D. Restaurants seeking to offer outdoor dining must comply with applicable Plumbing Code requirements which limit the number of overall restaurants seats, including those in the outdoor dining area, based on the bathroom facilities as well as any other applicable legal requirements. Please contact Inspectional Services 617-349-6100 or ranjits@cambridgema.gov with any

questions about how your outdoor seating might impact plumbing requirements for your restaurant establishment.


- E. Restaurants must ensure that outdoor seating areas remain accessible to the public in accordance with the Americans with Disabilities Act (ADA) requirements. This may be accomplished with temporary ramps, access at ground level at the rear of the outdoor seating area, or with an elevated platform flush with the sidewalk. Outdoor dining must be accessible and meet PROWAG and Massachusetts Architectural Access Board's regulations (available at <https://www.mass.gov/doc/521-cmr-1700-restaurants/download>).
- F. Patio Heaters: The patio heater program is only available to businesses that have an annual Common Victualler, Alcohol and/or Innholder license which includes a public or private licensed outdoor area in which they serve food and/or beverages.

VII. Other Resources:

The Community Development Department will issue Outdoor Dining Design Guidelines which may assist you in designing your outdoor area.

In addition, CDD will issue a lookbook that will provide inspirations and ideas for successful outdoor dining.

Dated: 11/9/21

By: 
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