



CITY of NEW BEDFORD

Implementation Guidance for Temporary Outdoor Dining

- Outdoor Dining Cafes
- Private Dining Areas
- Municipal Picnic Parks





INTRODUCTION

Restaurants began providing outdoor table service at the commencement of Phase 2 of the Commonwealth's Reopening Plan on June 8th. Restaurants were allowed to commence restricted indoor table seating by a subsequent Phase 2 Order on June 22nd while being encouraged to structure operations to operate as much as possible through outdoor table service.

To ensure safe social distancing while dining, food service establishments might need to create new outdoor seating areas or increase the amount of permitted outdoor seating.

The City of New Bedford maintains an Outdoor Café program for the licensing of public rights-of-way to private businesses. To aid businesses during this emergency, that program is being amended to offer the expansion onto additional public rights-of-way including sidewalks, closed streets, and on-street parking spaces where approved and considered safe. These areas shall be considered an Outdoor Café Premises and require a Temporary Outdoor Café Permit.

The Temporary Outdoor Café Permit is expedited with no cost and available on the City's website along with additional Guidance Documents: <https://www.newbedford-ma.gov/planning/>

The Temporary Outdoor Dining Provisions are in affect until October 31, 2020.

THREE TYPES OF OUTDOOR SPACES COVERED BY THESE PROVISIONS

- Temporary expansion of outdoor dining areas on private property.
- Temporary expansion of dining areas onto public right-of-way or other publicly owned space.
- Temporary creation of "Picnic Parks" on public right-of-way or other publicly owned space for the use by the general public for carry-out from dining establishments.

This document is intended to assist businesses in the implementation of their outdoor dining in accordance with [State Guidelines](#). Questions can be directed to the following:



Inspectional Services

Danny Romanowicz, Director
133 William Street New Bedford, Ma 02740
(508) 979-1540
<https://www.newbedfordma.gov/inspectionalservices/additional-forms/>



Licensing Board

Nick Nanopoulos, Director
133 William Street New Bedford, Ma 02740
(508) 979-1457
<https://www.newbedfordma.gov/licensing/>



Health Department/BOH

Damon Chaplin, Director
1213 Purchase St New Bedford, MA 02740
(508)- 991-6199
<https://www.newbedfordma.gov/health-department/>



City Planning/Planning Board, Historic Commission

Tabitha Harkin, Director
133 William Street, New Bedford, Ma 02740
(508) 979-1488
<https://www.newbedford-ma.gov/planning/>



STREET MODIFICATIONS



Cities throughout the country (and world) are modifying streets to through traffic to create sufficient “social distance” space for people to walk or bicycle. New Bedford is exploring and slowly implementing certain measures to safely accommodate expanded business operations, including dining in street parking spaces.

Temporary traffic pattern changes may be required along with some sidewalk closures. The City will assist with the appropriate required signage in these cases.

TEMPORARY PICK-UP/LOADING ZONES



Social distancing requirements have forced businesses to reconfigure their operations, utilizing takeout or curbside pickup to keep selling their goods and services. Street modifications may interfere with existing systems and the City will be working with businesses to establish temporary loading or curb-side pickup zones and provide appropriate signage if necessary.

REDUCED PARKING REQUIREMENTS



All minimum parking requirements of the Zoning Ordinance for all commercially zoned properties are suspended. This allows businesses to expand onto parking lots without causing violation to parking requirements.

- Accessible parking spaces must be maintained in existing parking lots.
- Tables, tents, display racks, or other objects proposed in parking areas do not block entrances, exits, fire lanes, hydrants, drive aisles, back-up areas, or safe pedestrian circulation.
- A physical barrier or separation, such as bollards or planter boxes, will protect customers from vehicle traffic both on-site/within the parking area and adjacent to the site.
- The plan meets Fire Department standards, including points of egress, safe circulation, and access to fire extinguishers

HISTORICAL COMMISSION REQUIREMENTS



The Historical Commission will be administratively issuing Temporary Certificates of Hardship for all businesses within the Historic District making exterior alterations to their sites as they accommodate outside business activities.

LIQUOR LICENSES (for Takeout, Delivery, New Outdoor Seating Areas)



During the State of Emergency, Massachusetts has allowed businesses with liquor licenses to sell beer and wine for off-premises consumption. The current order in Massachusetts requires food to be purchased along with the beer or alcohol.

On June 1, 2020, Governor Charlie Baker issued an Order Clarifying the Progression of the Commonwealth’s Phased Workplace Re-Opening Plan.

The Order grants the local licensing authorities (“LLA”) the authority to expand alcohol licensees’ licensed premises for outdoor seating that the LLA deems “reasonable and proper.” in an expedited process.

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 Alcoholic Beverages Control Commission (ABCC) guidelines issued in 2015 for the approval of outdoor seating. ABCC approval is not required on these applications

- 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 alcoholic beverages take place only as authorized by federal, state, and local law.

SIGNAGE



As businesses look to alert customers, additional and creative signage may be required. Both permanent and temporary signs normally require permits and the City is encouraging the use of both temporary sandwich board signs and store windows signage, allowing businesses to quickly install the signs needed to operate safely and attract customers. Properties within local historic districts will receive administrative review.

- Sign content is COVID-19-related (i.e., explains health procedures, designates pickup areas, etc.)
- Signs do not restrict pedestrian circulation areas.
- Signs do not impede handicapped parking spaces or handicapped access.
- Signs do not obstruct vehicle sight lines

OUTDOOR SEATING



In accordance with the Governor's Executive Order, outdoor dining is space that is outside the footprint of the building and at least 50% of the perimeter of the space must be open air.

Outdoor Dining on Private Property

Establishments with access to private sidewalks, private parking lots, or other adjacent vacant open land, may utilize these areas to temporarily expand their on-premise dining areas.

- If you are **expanding** a previously approved outdoor dining space or **creating a new space** on private property you will be required to submit a [Temporary Outdoor Café Permit](#) per State regulations.
- **Establishments Serving Alcohol:** In an area where alcohol is served, the seating area must be separated from the pedestrian areas with a system of enclosure such as decorative fencing, planters or removable bollards.
- **Provisions:** See Outdoor Dining on Public Right of Way Provisions *below* which are also applicable.

Outdoor Dining on Public Right of Way

To aid businesses during this emergency, the City's Café Seating Program is being amended to offer expansion onto additional public rights-of-way including sidewalks, closed streets, and on-street parking spaces where approved and considered safe. These areas shall be considered an Outdoor Café Premises and require a Temporary Outdoor Café Permit.

Provisions:

- **ALCOHOL:** The outdoor café may only be used for seated dining and cannot be used for the sole purpose of drinking alcohol;
- **CLOSING HOURS:** All outdoor activity must cease at the close of business or midnight, whichever is earlier or otherwise regulated by the City's Licensing Board and Massachusetts Alcoholic Beverages Control;
- **ENTERTAINMENT:** No live music shall be permitted in Existing and Expanded Premises;
- **DINING ONLY:** All amenities and areas not employed for food and beverage service (e.g., dance floors, pool tables, playgrounds, etc.) must be closed or removed to prevent gathering of customers;
- **PARKING LOTS/TRAFFIC:** Outdoor cafés that expand into parking spaces, loading zones or streets shall establish a barrier between the café and areas of vehicular traffic. *See Barrier Information Below.*

Provisions- Continued:

- **ACCESSIBILITY:** All outdoor cafes must comply with all applicable federal, state and local laws and regulations, including the Americans with Disabilities Act.
- **TENTS:** All tents, regardless of size must have the approval of the Fire Marshal. In no instance shall a tent cause permanent damage to sidewalks, pavement, street trees, or other public property.
 - Tents will not be walled on more than 50% of their sides.
 - Tents must be constructed of non-flammable materials.
 - Tents shall be taken down by café closing time unless otherwise approved to remain by the Fire Marshal.
 - Tents are *NOT ALLOWED* in the Street.
- **BARRIERS:** Seating area must be enclosed by fencing, a rope, or other temporary means to ensure the area is clearly identified and there is no access from the adjacent public realm. *See Barrier Details below.*

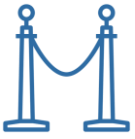


ACCEPTABLE BARRIERS FOR SIDEWALKS

Establishments Serving Alcohol **MUST** use a Barrier

- **Barrier Types**
- 36" high min
- 48" high max
- Sturdy and stable but cannot be permanently attached to the public-way.





ON-STREET OUTDOOR DINING BARRIER REQUIREMENTS

Applicants should be aware that requests to occupy curbside street space means the space will no longer be available for its current use. This includes *commercial loading, takeout food pick up, passenger pick up and drop off, metered parking, and other uses.* **The City will evaluate the ability to utilize parking areas on an individual basis.**

DINING PARKLETS



- The area must be fully enclosed by barriers on **three sides**, protecting the area from the travel lane, parking lane, and any intersections.
- Barriers should be designed to remain in place at all times, in order to maintain the space for future use and to avoid vehicles parking in the area.

Required Barriers - Jersey Barriers (Concrete or Water-Filled) See SITE PLAN photo below on p. 8.
The City will assist in compliance.

- One jersey barrier (concrete or water-filled) is required at any edge that would encounter oncoming traffic, this is typically on the leading edge.
- An additional jersey barrier is required adjacent to a leading edge jersey barrier, creating an L corner, in certain situations (e.g. roadway with more than one single travel lane, roadway with heavy bus traffic, and in close proximity to an intersection where turning maneuvers may impact the area).
- One jersey barrier is required at the far edge if vehicles will be using the curb lane adjacent to the area for any reason (parking, standing, loading) and if the far edge abuts an intersection.
- On roadways with average speeds higher than 35 mph the area must be fully enclosed by jersey barriers (concrete or water-filled)

Implementation Guidelines for Temporary Outdoor Dining



Water-Filled Barrier



Concrete Barrier

Any remaining area not protected by a jersey barrier must be protected by a hard edge, such as an interconnected steel barricade or heavy planter barrier.

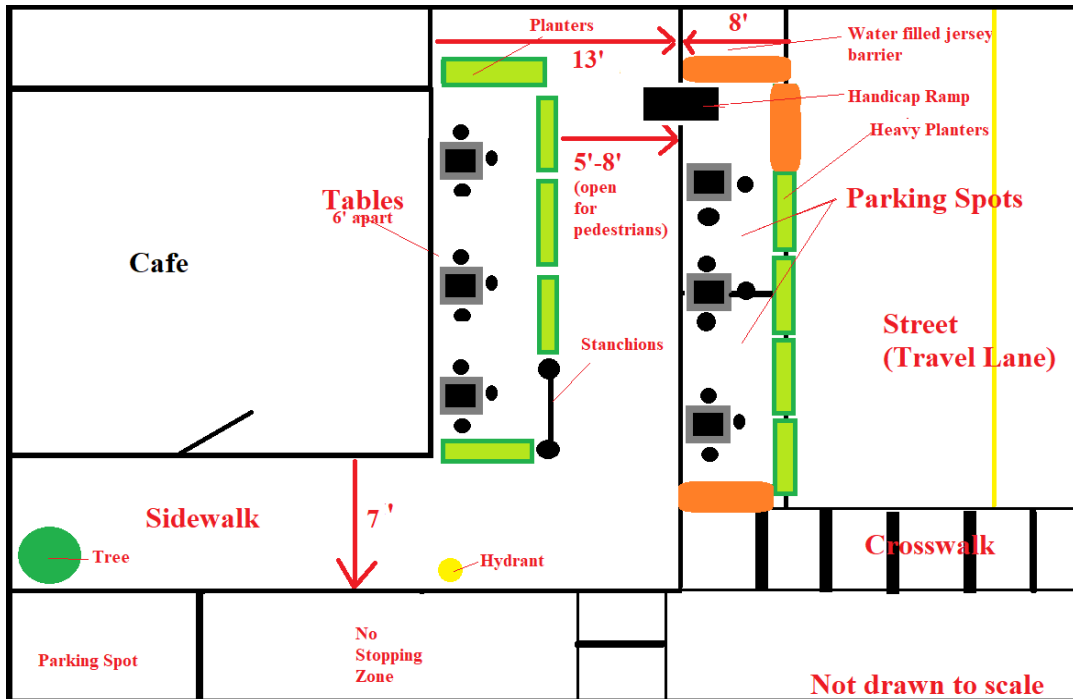
- The entire seating area needs to be fully enclosed to prevent patrons from permeating through and into the street (i.e. no significant gaps). Occasional narrow gaps may exist between the hard elements as long as they are connected (rope, chain, etc.).



Interconnected Metal Fencing



Planter Barrier



PARKING LANE SITE PLAN SAMPLE

OUTDOOR DINING SAFETY



On June 25th the Massachusetts Office of Public Safety and Inspections issued [Outdoor Dining Safety Guidance](#) to ensure safe occupancy for restaurants and compliance with building and fire codes.

Building officials have the authority to grant a permit for temporary structures, such as tents which conform to the building code, for a period not exceeding 180 days (780 CMR Section 108, as amended). Building permits apply when the tent exceeds 400 square feet and intended for the gathering together of 10 or more persons.

TENTS



- Tent materials must be compliant with fire resistance ratings tested to NFPA 701 [IFC Section 3104.2] and the tent must be compliant with the provisions of IFC Chapter 31.
- COVID-19 Order No. 35 stipulates **50 percent** of the perimeter of any covered dining space must remain open.
- Egress, exit signage and illumination shall comply with IFC Section 3103.
- Open flame, including grills or cooking appliances are not permitted within 20 feet of the tent structure
- Occupancy is determined by the building official by applying 780 CMR or IFC Section 1004, including Section 1004.5 for outdoor seating and Table 1004.1.2 for seating contained within a tent, on a deck, or within barriers.

OUTDOOR PATIO HEATERS

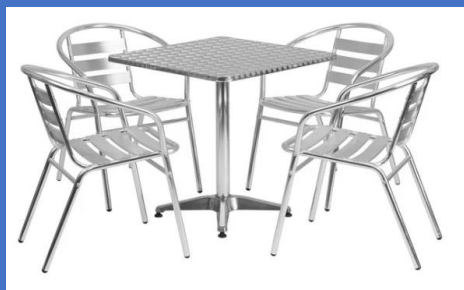
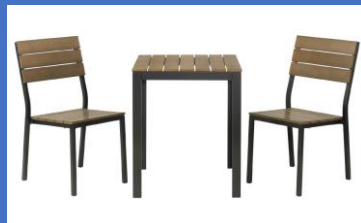


- Outdoor patio heaters are regulated and coordination with the fire department is necessary for the approval and permitting of these appliances, fuel storage and use.
- Patio heaters must be used only in well-ventilated areas away from combustible materials. They are not permitted within tents with enclosed walls. Patio heaters with open or exposed flames are not permitted inside or within 20 feet of tent per IFC Section 3104.7.
- Patio heaters shall not be located within 5 feet of exits. [527 CMR 1.00: 69.3.11.1.3]
- LPG storage in excess of 42 lbs. (two 20 lbs. grill-sized tanks) requires a permit from the local fire department. [527 CMR 1.00: 1.12.8.50]
- Fuel storage within buildings must be limited in accordance with 780 CMR and 527 CMR 1.00: Table 60.4.2.1.1.3. Outdoor storage areas must comply with 527 CMR 1.00: Chapter 60 and Chapter 66 or 69 as applicable.
- Electrical heating equipment is permitted within a tent if compliant with 527 CMR 12.00 (NFPA 70). [IFC Section 3104.15.7]

BEST PRACTICES EXAMPLES

Tables & Chairs

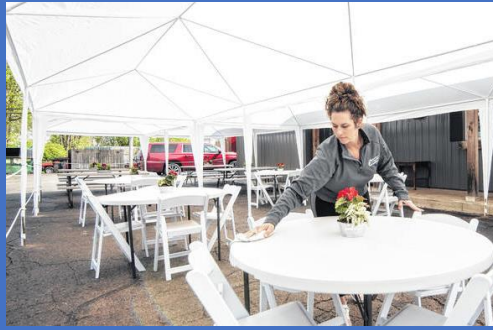
- Encouraged table materials: metals, finish grade woods, sturdy recycled materials



Use of Planters as Barriers



BEST PRACTICES EXAMPLES



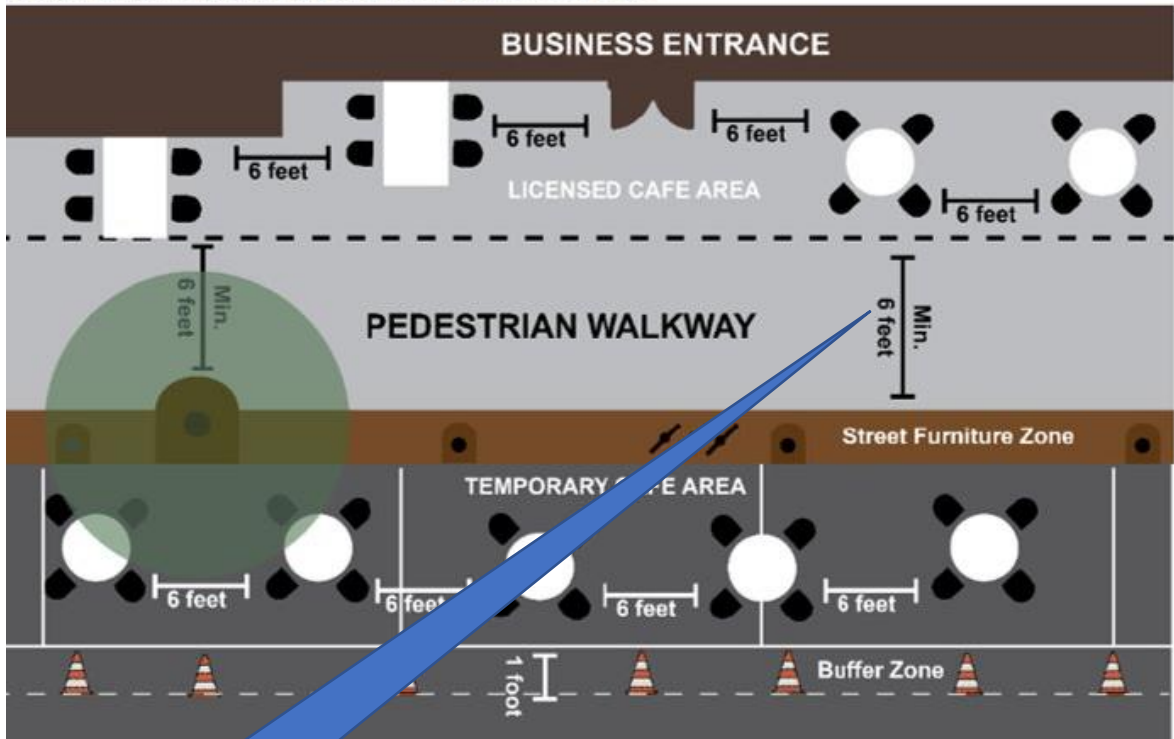
Use of Umbrellas is encouraged.
Tents **MUST** be Fire Retardant and Certification provided.

Parklet Safety Tools



Implementation Guidelines for Temporary Outdoor Dining

Example Diagram of Spacing Requirements for Outdoor Cafes



City may provide signage for temporary pedestrian re-routing for narrow sidewalks.



OUTDOOR DINING EXAMPLES



OUTDOOR DINING EXAMPLES



STREET PARKLET EXAMPLES



MUNICIPAL DINING PARKS



In an effort to assist those businesses without adequate outdoor dining space, and to provide additional dining options, the City is creating dining areas in municipally owned public spaces. Initially a “Picnic Park” in Downtown’s Custom House Square is available for the public to take carry-out food from Downtown establishments.

This space is open to any patron with carry-out from local establishments. Within the areas, picnic tables will be provided allowing a maximum of six individuals per table. Tables will be spaced to comply with distancing requirements. The Downtown Picnic Park will provide for trash and sanitization.

General Provisions

- Visitors to the Picnic Parks must follow all State guidance and regulations.
- Hours of operation will be daily 11:00 AM to 9:00 PM and may close periodically for cleaning.
- The Picnic Parks will not be accessible outside of these hours.
- Visitors to the Picnic Parks must be using them for consumption of carry-out from Downtown food and beverage establishments.
- Local businesses are not allowed to use Picnic Parks for direct table service.
- No alcohol is permitted to be served or consumed in the Downtown Picnic Parks.
- Picnic tables must remain in place and shall not be moved. No more than six individuals per table.
- Visitors to the Picnic Parks are asked to utilize the sanitization station provided upon entry and exit.
- City Staff will provide regular cleaning but not after each table use.
- Visitors shall comply with posted rules at the Picnic Parks.



Custom House Square Park