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Shaun Shanahan  
*Building Commissioner*

MEMORANDUM

TO: Eileen Donoghue, City Manager   
Diane Tradd, DPD Director

FROM: R. Eric Slagle, Director of Development Services

RE: **MOTION BY MAYOR SAMARAS - REQ. CITY MGR. INSTRUCT PROPER DEPARTMENT TO ENSURE ALL RESTAURANTS WITH SIDEWALK SEATING COMPLY WITH THE 48 INCH CLEARANCE AS REQUIRED BY THE AMERICAN WITH DISABILITIES ACT.**

This memorandum addresses the request from Mayor Samaras to have Development Services ensure that all restaurants with sidewalk seating comply with the requirements for a 48" clearance.

Development Services currently administers the Sidewalk Seating Program in the City. The Planning staff intakes sidewalk seating applications, forwards the information to the various City departments for their review, and submits application packets for the City Council agenda. We provide an extensive package for each sidewalk seating applicant to make sure that they understand the City's regulations regarding the seating area. (see attached guidelines)

Additionally, during the sidewalk seating season (April – October) a team of one planner and one building inspector perform downtown inspections of all sidewalk seating facilities on a weekly basis. The inspections are to ensure that the layout and fencing is consistent with the application, and that there is the required 48" clearance between the fencing and any obstruction. Please note that City staff measures from the fence to any obstruction, not from the fence to the curb.

Development Services will continue to make our regular inspections to ensure compliance with the guidelines, and we encourage any individual who believes that a sidewalk seating facility is encroaching on the clearance to report it to us, and we will make an immediate inspection.

ES

5/16/2018



# CITY OF LOWELL

## DOWNTOWN SIDEWALK SEATING GUIDELINES

## **SIDEWALK SEATING GUIDELINES**

### **I. Purpose**

Outdoor seating contributes to the vitality and attractiveness of Lowell's Downtown and enriches the pedestrian experience. In order to ensure public safety and to clarify and provide standards for sidewalk uses, a set of guidelines has been prepared for businesses requesting outdoor seating permit. Compliance with all applicable sections of these guidelines is required at all times (e.g. Insurance, clearance requirements), in addition to those required by the Lowell Historic Board (Attachment A).

### **II. Definition**

A sidewalk seating is an outdoor area located on the public right-of-way (ROW) which is operated and maintained by a business establishment.

#### *II.A. Sidewalk Seating Area Clearance Requirements*

Restaurant operators are required to maintain minimum four feet (4') clearance and necessary ADA provisions for pedestrian through-way at all times.

### **III. Sidewalk Seating Layout**

#### *III.A. Temporary Outdoor Fixtures*

The downtown sidewalk seating area contains various sidewalk patterns, (trees, vaults, handicap access, etc.) which affect the placement of improvements such as tables and chairs in the public right-of-way. The installation of these improvements is considered temporary in nature. The operator shall furnish the seating area with tables and chairs, and may include umbrellas and portable heaters.

The restaurant operator shall remove moveable sidewalk seating improvements while business is closed, unless written permission is granted to do otherwise by the City.

The restaurant operator shall remove temporary fixtures related to sidewalk seating during the off season, unless written permission to do otherwise is granted by the city.

Outdoor seating season is from April 1<sup>st</sup> to October 31<sup>st</sup>. These dates were meant to prevent sidewalk seating from being out during the snow removal months, as well as to prevent unnecessary obstruction and neglect.

### *III. B. Permanent Improvements*

The business operator shall not make any permanent changes, such as bolting tables to the ground.

### *III. C. Clearance Requirements*

The business operators are required to maintain all clearance requirements at all times.

## **IV. Outdoor Furniture Design Guidelines**

All furniture shall meet the following design standards.

### *IV. A. Tables and Chairs*

Material: Tables and chairs shall match and be made of safe, sturdy and durable material, such as wood, steel, plastic, and wrought iron. All furniture shall be commercial grade and manufactured for outdoor commercial use.

### *IV. B. Seating Capacity*

Small round or square tables shall seat no more than four people unless otherwise approved by the City, subject to compliance with the clearance requirements. Use of larger tables may be granted by the City provided that all clearance requirements are met.

### *IV. C. Umbrellas*

Individual canvas or other non-vinyl umbrellas of a compatible design may be permitted in the right-of-way and shall not extend over the pedestrian zone. Umbrellas shall be made for outdoor commercial use subject to City approval.

### *IV. D. Fences/Barriers*

Moveable barriers and fences shall be shown on the application site plan and are subject to approval by the City.

## **V. APPLICATION**

### ***V.A Submission Requirements***

The following documents must be filed with this application:

- Photos of chairs, tables, fencing, bollards, and planters proposed to be used in the area and a copy of the plan or sketch showing in the proposed sidewalk seating area, drawn to scale, and a legal description of the area is required.
- Copy of proposed menu.
- Proof of liability insurance in at least the amount of \$500,000.00 for bodily injury and property damage, naming the City of Lowell as an insured.

Approval by the City Engineer is necessary where proposed area is above underground vault.

### ***V.B. Outdoor Seating Application Process***

(1) Submit completed application with required documentation to:

Development Services  
Attn: Christine McCall  
375 Merrimack Street, Room 55  
Lowell, MA 01852

(2) Application will be reviewed by DPD and the Historic Commission for compliance with all guidelines.

(3) Application is submitted to the Lowell City Council for approval. Application needs to be submitted at least 10 days in advance for City Council review.

(4) Applicant is notified of the City Council decision.

**APPLICATION FOR SIDEWALK SEATING LICENSE**

Name of Business Owner:

\_\_\_\_\_

Name of Business:

\_\_\_\_\_

Business Address:

\_\_\_\_\_

Corporate Officer (if applicable):

\_\_\_\_\_

Owner's Residence Address:

\_\_\_\_\_

Owner's Telephone #:

(day)

\_\_\_\_\_

(evening)

\_\_\_\_\_

Property Owner's Name:

\_\_\_\_\_

Does the business serve alcoholic beverages? Yes \_\_\_\_\_ No \_\_\_\_\_  
(If so, contact the License Commission regarding serving alcohol in sidewalk seating areas).

Applicant

\_\_\_\_\_

Date

\_\_\_\_\_