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## PROPOSED

### OUTDOOR SEATING LICENSE PROCESS

*Prepared in Collaboration between the following City departments & divisions:*

*City Clerk, DPW, Economic Development, Engineering, Fire Protection, ISD, Law, Mayor's Office, Mobility, Parking, Planning & Zoning, PSUF, and RSJ*

*1~~8~~ February 2022*

#### Definitions

1. **Outdoor Seating:** Any seating, and accessories thereto, provided by and for the exclusive use of a restaurant and their patrons during the licensed operation hours of the restaurant, and located outside of a permanent structure.
2. **Private Outdoor Seating:** *Outdoor Seating* located on private property (including private streets, driveways, parking lots, etc.).
3. **Public Street Seating:** *Outdoor Seating* located in the public street or on city-owned public property or on private property with a public sidewalk easement to extend the width of the public street.
4. **Sidewalk Seating:** A type of *Public Street Seating* that is located on a paved surface intended for and *accessible* to pedestrians.
5. **Parklet Seating:** A type of *Public Street Seating* that is located in the paved roadway, typically in the parking lane or other unused lane of the roadway.
6. **Accessible:** A site, building, facility or portion thereof that complies with the Massachusetts Architectural Access Board (MAAB) Regulations (521 CMR) and that can be approached, entered, and used by persons with disabilities. When the term "accessible" is used, it shall mean both physical and communication accessible unless otherwise noted in 521 CMR 5.00.
7. **Design Professionals:** An architect, engineer, surveyor and/or landscape architect currently licensed in Massachusetts.





## Jurisdiction

1. This process applies to all *Outdoor Seating* pursuant to Somerville Ordinances (currently section 12-14) and Licensing Commission Rules & Regulations (currently section 1.18).
2. All *Outdoor Seating* by restaurants and other licensees is licensed by the Somerville Licensing Commission.
3. If approved, *Outdoor Seating* will be licensed as an amendment to an existing license with the Licensing Commission.

## Application Submittal & Approval Process

1. All applications are submitted to the City Clerk via CitizenServe: <https://www.somervillema.gov/citizenserve>.
2. All taxes, fees or fines owed to the City of Somerville must be paid prior to application.
3. Application fee is due upon application.
4. Annual license fees are due upon approval of license.
5. A complete application includes the following documentation:
  - a. Worker's Compensation Insurance Affidavit.
  - b. Certificate of Insurance showing the City of Somerville as an Additional Insured on licensee's business liability insurance.
  - c. Scaled site plan prepared and certified by a *design professional*. Site plan shall depict all relevant features including, but not limited to:
    - i. Dimensions of sidewalk, storefront, roadway, seating area and all other noted features;
    - ii. Elevation survey of sidewalk and/or roadway if no platform is proposed;
    - iii. Parking spaces, loading area, bike lane or other roadway designations;
    - iv. Parking meters, signposts, hydrants, utility poles, trees, landscaping, and any other street furniture or utilities;
    - v. Bus stop, taxi stand, etc.;
    - vi. Applicants store front and entrances, and neighbors' storefront and entrances;





- vii. Scaled location of proposed seating, goods, signs, etc.; and
  - viii. Dog area, if proposed *outdoor seating* allows dogs.
  - d. Photo, rendering, dimensions and/or manufacturer's documentation of all proposed furniture, barriers, fencing, tables, chairs, etc.
  - e. Construction plans for any proposed structures (e.g., platforms and ramps), including structures with roofs, require plans prepared and certified by a *design professional*.
  - f. Toilet capacity calculations, including both existing indoor seating and proposed *outdoor seating* counts, prepared and certified by an architect or plumbing engineer currently licensed in Massachusetts (248 CMR 10.10 & 321 CMR 30.00). If portable toilets are provided, at least one shall be *accessible* (321 CMR 30.1.2).
6. The standard application review process, prior to the Licensing Commission hearing, includes but is not limited to the following City Divisions: Engineering, ISD-Health, ADA Coordinator and Fire Prevention.
  7. Licenses that include *Parklet Seating* will be forwarded to the Parking Department and the Traffic and Parking Commission for review and approval prior to the Licensing Commission hearing.
  8. Upon Licensing Commission approval, and the completion of any conditions, the City Clerk will provide applicant with an approval notice.
  9. Where applicable (typically for *Parklet Seating*), after receiving approval, the Applicant shall fill out the Parking Department form to bag parking meters and/or signs, and pay any fees to receive their license: <https://bit.ly/38uTGKX>.
  10. After receiving approval, the applicant shall pay the license fee to receive their license.
  11. Applicant shall contact ISD, Engineering and ADA Coordinator upon setup for safety and accessibility inspection, prior to its use.
  12. Licenses expire on December 31.
  13. Licenses may be renewed annually by the Licensing Commission.
  14. Whenever necessary the Mayor's Office, the Clerk's Office, the Parking Department, the Traffic and Parking Commission, the Licensing Commission, the Engineering Division, ISD-Health and/or Fire Prevention may require a resubmitted license application instead of a license renewal. Causes may include, but are not limited to street redesign, changes to ordinances, rules, regulations and/or laws, and enforcement concerns.
  15. Licenses are not transferable.





## Fees

1. Application:
  - a. *Private Outdoor Seating*: \$200
  - b. *Public Street Seating (Sidewalk and/or Parklet Seating)*: \$200
2. Annual License:
  - a. *Private Outdoor Seating*: No Annual License Fee
  - b. *Public Street Seating (Sidewalk and/or Parklet Seating)*: \$100/seat

## License Requirements & Conditions

### *General*

1. Seats, tables, barriers, signs, stands, etc. may only be located as depicted on the plans in the approved license.
2. All components of the license area shall meet all requirements of the ADA and MAAB (521 CMR); this includes, but is not limited to, access aisles, approaches to seating from sidewalk and clear floor space, and *accessible* tables and seating.
3. Provide at least one *accessible* table or 10% of total outdoor seating in each license area, whichever is greater. *Accessible tables shall be distributed by size and location throughout the license area (521 CMR 17.2)*
4. All building entrances, crosswalks and adjacent sidewalks shall be connected by an *accessible* walkway in good repair (521 CMR 20 & 22). If for any reason an *accessible* walkway is not available, the licensed use will be suspended and removed until the *accessible* walkway is restored.
5. The standard *accessible* route width along Pedestrian Sidewalks as defined by the Somerville Zoning Ordinance shall not be reduced to less than 60", and elsewhere shall not be reduced to less than 48".
6. The licensed areas shall only be located in front of the licensee's storefront or on the licensee's private property, unless written permission is granted by the adjacent storefront and/or property tenant, and the neighboring property owner, and approved by the Licensing Commission.
7. The licensed areas that also include a license to serve alcohol shall be surrounded by fencing as specified in the Licensing Commission Rules & Regulations.
8. If the licensee has a license to serve alcohol and chooses to serve alcohol in the license area, it shall be located to meet current ABCC Rules & Regulations.





9. The City assumes no responsibility for any damage to private or public property and licensee expressly releases City from all liability, damage, and cost for any damage to private property within the licensed area. In addition, the licensee agrees to indemnify the City against any claims arising out of or in any way related to its failure to properly clear the public right of way as requested by the City. The licensee agrees to add the City as an additional insured party on its liability insurance.
10. Upon notice by the Licensing Commission, Commissioner of Public Works, or the City Engineer, the Equipment in the public way must be removed if the public way needs to be accessed for a public purpose, including but not limited to snow removal, street repair, and utility work. The Licensee also agrees in the event of an emergency, the City may require removal of the Equipment without notice.
11. If the licensee violates these requirements, any conditions, and/or local or state laws, the violation will result in a written warning and then daily fines if any violation continues 48 hours after the warning. License violations may also result in the revocation of the licensee's license after notice and public hearing by the Licensing Commission.

#### *Private Outdoor Seating*

1. Seating located on a parking lot may not occupy or obstruct access to the existing *accessible* parking spaces and aisles. **Where accessible parking is adjacent to the license area, provide fencing separating the two to avoid encroachment.**
2. Each *Private Outdoor Seating* area shall be *accessible*, including access routes to the public sidewalk and/or to *accessible* space inside the licensee's premises (521 CMR 17). If an exterior route to the *Private Outdoor Seating* is provided, it shall be *accessible*.

#### *Public Street Seating*

1. Licensee may not restrict access to *Public Street Seating* areas (*Sidewalk & Parklet Seating*) while the restaurant is not operating and actively seating patrons. Any furniture that remains outside of operating hours must be in a safe and useable condition.
2. Licensee shall maintain their *Public Street Seating* area in a clean and safe condition at all times.
3. Licensee shall provide & maintain trash receptacle and/or provide bussing service during hours of operation.
4. Licensee shall post a conspicuous sign requiring patrons to not rearrange seating and/or relocate seating into the sidewalk or other *accessible* walks, routes, ramps or aisles.
5. Licensee's operation in the licensed area may not begin earlier than 6:00 AM and may not extend beyond 11:00 PM, inclusive of time to setup, breakdown and clean the area.





6. The licensed areas in the public street are only authorized from April 1 to November 14.
7. *Parklet Seating* located on a constructed platforms shall be level (2% maximum slope in any direction), stable, firm and slip resistant, and connects to the sidewalk with a bridge plate that spans over the curb and provides a level change of less than ¼" (521 CMR 20).
8. *Parklet Seating* that remains at roadway grade (typically 6" below sidewalk grade) shall include an *accessible* ramp with a 1:12 (8.3%) maximum slope, 48" clear width, 60" by 60" level landings on both ends, and handrails (521 CMR 24) and/or an *accessible* curb cut in good repair at an existing crosswalk (521 CMR 21); and application shall include a survey prepared and certified by a *design professional* of the existing roadway surface confirming that it is both level (2% maximum slope in any direction) and flat (all level changes of less than ¼").
9. *Parklet Seating* shall not extend any further into the roadway than the painted parking lane lines or 7 feet, whichever is greater.
10. All elements of the *Parklet Seating* shall remain a minimum of 6 inches in distance away from the outside edge of the adjacent bike or travel lane.
11. *Parklet Seating* shall include a railing separating the seating from the roadway. The railing shall meet the requirements of a Guard as defined by State Building Code (780 CMR, currently 9th Edition, 2015 IBC Sec. 1015).
12. *Parklet Seating* shall include a traffic control barrier on one or more sides when justified by the specific traffic conditions as determined by the City and/or Traffic & Parking Commission. Traffic barriers may include Jersey Barriers, water-filled barriers, etc. The design of the barrier is part of the license approval.
13. *Parklet Seating* shall include reflective tape or reflective markers to the traffic facing sides of the Parklet structure or railings.
14. *Parklet Seating* may not be located within 10' of a fire hydrant.
15. *Parklet Seating* may not be located within a vehicle, bicycle or any other travel lane.
16. *Parklet Seating* may not be located within 5' of a crosswalk.
17. *Parklet Seating* within 20' of a crosswalk may not have any objects taller than 48" from sidewalk elevation.
18. *Parklet Seating* platforms and other temporary structures shall include removable sections to access all utility manholes and access structures. Licensee shall remove section when requested by City. At least 24 hours verbal notice will be provided. Emergencies may require shorter or immediate notification.





19. Parklet Seating platforms and other temporary structures shall maintain a clear drainage path beneath the structure; clean beneath the structure on a monthly basis to avoid debris and blockages from collecting.

### *Dog Areas*

1. Animals, except service animals, are not permitted at *Street Seating*, except for dogs if the license explicitly permits this use.
2. Licensees with a license that includes dog seating must enforce the following:
  - a. Every dog must be leashed and licensed.
  - b. Licensee shall provide bowls of water for the sole use of dogs.
  - c. Employees are not allowed to touch, pet, or handle dogs.
  - d. Dogs are not allowed on furniture.
  - e. Dogs are not allowed to eat from plates.
  - f. Post a conspicuous sign to designate the outdoor dog area.

