

Policy Statement

2020-06-22

Temporary use of Town's Property

Dining (Indoor and Outdoor Seating):

On June 1, 2020, the Governor issued COVID-19 Order No. 35, which allows restaurants to provide outdoor table service at the commencement of Phase II of the Commonwealth's phased re-opening of workplaces. The Governor's Order authorizes the Select Board to establish the process for approving requests from restaurants to provide outdoor table service. This Order sets forth the process for restaurants operating in Provincetown.

1. "Outdoor table service" shall have the same meaning as set forth in COVID Order No. 35. It shall mean service that is provided outside the restaurant building envelope, whether on a sidewalk, patio, deck, lawn, parking area, or other outdoor space. Outdoor table service may be provided under awnings or table umbrellas or other cover from the elements, provided, however, that at least 50 percent of the perimeter of any covered dining space must remain open and unobstructed by any form of siding or barriers at all times.
2. Any restaurant wishing to expand their premises to include outdoor dining areas, shall make written application to the Board of Health and shall receive the approval of the Board or its authorized agent prior to using any outdoor dining space.
3. The application shall include a plan showing the location of the proposed outdoor dining area, the size of the outdoor dining area, the number of seats and tables that will be located in the outdoor dining area, and any other information required by the Board or its agent. In anticipation of the allowance of indoor dining, the plan submitted should also include, for approval, the configuration of indoor tables along with the total number of proposed seating.
4. Approval to use an outdoor dining area shall not result in an increase in the number of seats authorized for the premises. In the event the Commonwealth authorizes at a later date indoor table service, this Order may be deemed revised accordingly, except that the number of seats permitted inside the establishment shall be reduced by the number of seats allowed outside the establishment.
5. The expansion of outside dining onto Town-owned beaches is subject to approval by the Board of Health and the Select Board. Expansion of dining on to private beaches is subject to approval of the beach owner and the Board of Health.
6. The permit holder shall demonstrate a legal right of access to the proposed outdoor space, through either ownership, lease or written permission of the owner. Under no circumstances shall outdoor dining be allowed on any public sidewalk, within the Town's public right of way or on any other Town-owned property, unless approved by the Select Board, in writing.
7. Notwithstanding the provisions of chapter 40A of the General Laws, or any special permit, variance or other approval thereunder, or any general or special law to the contrary, the Building Department shall approve requests for expansion of outdoor table service. The approval need not comply with the notice and publication provisions of section 11 of Chapter 40A of the General laws. Simultaneously, the Building Department may approve the configuration of an amended indoor seating plan. This may be accomplished by submitting a singular amended plan.
8. If the establishment intends to serve alcohol in the outdoor area, the holder of the liquor license may apply to the Licensing Board for a change in the description of the licensed premises to allow outdoor

- alcohol service. The Licensing Board may grant the change in location without a public hearing and without further review or approval by the Alcohol Beverages Control Board (“ABBC”) prior to issuance. See the COVID-19 Order and the ABCC Advisory issued on June 1, 2020.
9. If the establishment intends to use the outdoor area for entertainment, the permit holder shall obtain a permit from the Licensing Board.
 10. The outdoor area shall physically abut the primary premises, such that wait staff and patrons shall not have to cross streets, private property or parking lots to access the outdoor area.
 11. The outdoor area shall be physically designated with ropes, fencing or other barriers and no space outside the designate area shall be used for outdoor dining purposes.
 12. The permit holder shall comply with and enforce all rules, orders and guidance of the Governor, the Department of Public Health and the Town of Provincetown Board of Health relative to COVID-19 safety measures, including but not limited to, workplace safety requirements, gathering size limits, physical distancing, and face covering requirements.
 13. The permit holder shall be solely responsible for sanitizing the tables and chairs after each use, cleaning the outdoor area and securing tables, chairs and equipment when the area is not in use.
 14. All other regulations and permit conditions, including hours of operation, shall remain in effect, and the outdoor areas shall be subject to inspection by agents of the Board of Health.
 15. The Board of Health reserves the right to impose additional requirements on a case-by-case basis as may be necessary to protect public health, safety and welfare.
 16. Pursuant to the Governor’s COVID-19 Order No. 35, on November 1, 2020, or the date the Governor’s Order is rescinded, whichever is sooner, any approvals under this section shall automatically revert back to its status prior to the approval of the change for expansion of outdoor table service or in the description of a licensed premise.
 17. Food Trucks and the outdoor dispensing of food at hotels located out of the center of Town, as determined by the Board of Health, are not allowed.

Application Procedure:

- Step 1:** Applicant must adhere to items 1-4.
- Step 2:** Applicant must submit a certified plan along with completed applications to the Secretary to the Select Board.
- Step 3:** Once the application is deemed complete, the Secretary to the Select Board will schedule on Select Board’s agenda.
- Step 4:** Applicant or their representative must be present for the meeting.
- Step 5.** The Select Board reserve the right to alter the proposed layout on the approval.

Adopted:
In favor:
Opposed:

Temporary Use of Town Property for Dining

| | |
|--|-----------------------|
| Location: _____ | Parcel Number: _____ |
| Applicant: _____ | Property Owner: _____ |
| Applicants Mailing Address: _____ | |
| Applicant's Phone number: _____ email: _____ | |

Pursuant to Joint Emergency rule and order imposing certain measures to prevent the spread of COVID-19 within the Town.

Applicant's signature

Date

Official Use Only

| Public Safety Official | Approve | Disapprove | Date |
|--------------------------|---------|------------|------|
| Code Enforcement Officer | | | |
| Building Commissioner | | | |
| DPW Director | | | |
| Police Chief | | | |
| Conservation Agent | | | |

Comments: _____

Approved on: _____ **With the Conditions:** _____

