



Haverhill

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OUTDOOR DINING PERMIT CITY ORDINANCE

ARTICLE XII. Outdoor Dining

[Adopted 11-23-2004 by Doc. 150 (Ch. 222, Art. XI, of the 1980 Code)]

§ 222-66. Allowed use of sidewalk areas.

Notwithstanding any other provisions of the Code of the City of Haverhill, licensed food service establishments located within the Commercial Central (CC) zoning district on a public way, which includes a sidewalk of no less than four feet in width and is restricted to pedestrian traffic only, shall be allowed, subject to the provisions below, the use of said contiguous adjacent sidewalk areas to serve food and beverages from March 1 to October 31. No permit holder shall obtain any property right in the continued private commercial use of the public sidewalk.

§ 222-67. Permit required; fee; purpose.

A. Establishments seeking the use of said adjacent sidewalk areas to serve food and beverages shall annually apply for and obtain a permit to be issued by the License Commission. No other permit or license shall from any other board, department or officer of the City shall be required; however, any permit application shall be sent to the Board of Health, Building Inspector, Superintendent of Highways, Police Department and Mayor for comment.

B. The permit application shall include a description and diagram of the sidewalk area where service will be provided, which shall include the number and type of tables, chairs, umbrellas, heat lamps and any barriers, railings or other temporary dividers to be used. Applicants shall also provide a certificate of insurance and a sidewalk bond, both of which shall name the City as an insured. Other information shall be provided as required by the License Commission to carry out the purpose of this article. An application fee of \$100 for a permit shall be paid at the time of filing for either a new or renewal permit.

C. The License Commission shall grant or deny the permit no later than 30 days from the date the application is received by the License Commission and, if no determination is made within that period by the License Commission, the permit shall be deemed to be allowed. If an establishment seeks to serve alcoholic beverages as a component of outdoor dining, the application for a permit shall be considered as required by the License Commission pursuant to the provisions of Massachusetts General Laws.

D. The purpose of this article is to promote and encourage outdoor dining in the downtown area of the City and shall be interpreted in accordance with that intent. The License Commission may deny a permit only upon a finding that it would be detrimental to the public interest to have outdoor dining at the location applied for. In making such a determination, the License Commission may consider the following factors, among others:

- (1) Objections and/or concerns received from Board of Health, Building Inspector, Superintendent of Highways or Police Department.

- (2) Previous licensing, health or public safety complaints against the applicant.
- (3) The health and cleanliness of the establishment.
- (4) Excessive noise complaints or concerns, allowing for reasonable activity for the purpose of encouraging outdoor dining downtown.
- (5) Violations of any other laws, rules, or regulations.

E. The License Commission shall have the authority to deny, revoke or suspend the permit upon finding that any provision of this article, including the factors enumerated in Subsection D above, or condition of approval will be or has been violated. The License Commission shall give notice of any such action to the permit holder in writing stating the action taken and the reason therefore. The action may be effective immediately, but the applicant or permit holder may make a written request for a final hearing before the License Commission, which shall render a final decision concerning the permit. The Superintendent of Highways, after notice to the permit holder and the License Commission, may suspend the permit temporarily if the public interest requires use of the right-of-way for a public event, construction, repair, or any other purpose.

§ 222-68. Furnishings.

Only movable tables, chairs, umbrellas and heat lamps shall be placed on the sidewalk area. Awnings over the sidewalk area may be used; however, no permanent roof or shelter over the sidewalk area shall be erected. Barriers, railings or other temporary dividers may be used to designate the area where service will be provided. Should the permit holder not utilize the sidewalk as authorized for a period of 48 hours or more, all the tables and materials shall be removed therefrom, including the period from November 1 to the last day of February.

§ 222-69. Refuse storage.

No trash, garbage or refuse disposal shall be permitted to be maintained on the sidewalk area at any time. Sidewalk areas and all things placed there shall at all times be maintained in a clean and orderly condition. Sidewalk and flooring areas must be cleaned dally, including adjacent sidewalk areas.

§ 222-70. Hours of operation.

The use of contiguous adjacent sidewalk areas to serve food and beverages by establishments shall be limited to the hours of operation provided for by current state law, municipal ordinances or licensing provisions.

§ 222-71. Parking.

There shall be no further requirement for the provision of parking spaces by any establishment due to the maintenance of an outdoor dining area of 200 square feet or less.

§ 222-72. Pedestrian access.

Adequate room for passage by pedestrians on the remaining area of the sidewalk shall be provided at all times. Food service establishments which are not located on a sidewalk of at least four feet in width or for which no sidewalk exists on a public way may be allowed to obtain a permit for outdoor dining upon a finding by the License Commission that the establishment of an outdoor dining area, as shown on the description and diagram of the area where service will be provided, will not impede the passage of pedestrian traffic and where public safety would not be jeopardized.