## Rapid Recovery Plan

## Outdoor Dining/Retail Community Toolkit

A guide for communities seeking to assist business owners in creating outdoor dining and retail options





This Toolkit has been made possible through technical assistance provided by the Baker-Polito Administration's Local Rapid Recovery Planning program.





The Local Rapid Recovery Planning (RRP) program is a key part of the Baker-Polito Administration's Partnerships for Recovery Plan. the strategy established to help communities stabilize and grow the Massachusetts economy as a result of the economic impacts brought on by COVID-19. The plan invests \$774 million in efforts to get people back to work, support small businesses, foster innovation, revitalize downtowns, and keep people in stable housing.

In addition to the planning program, recovery efforts include a Small Business Relief Program administered by the Massachusetts Growth Capital Corporation. This program, which concluded in May 2021, provided more than \$687.2 million to over 15,000 businesses across the Commonwealth, with a focus on businesses located in Gateway Cities, among demographic priorities, or operating in sectors most impacted by the Pandemic. Cities, towns, and non-profit entities are using Regional Pilot Project Grant Program funding for recovery solutions that seek to activate vacant storefronts, support regional supply chain resiliency, and create small business support networks. To promote recovery in the tourism industry and support the ongoing My Local MA marketing initiative encouraging residents to support their local economies by shopping, dining and staying local, another \$1.6 million in grants were awarded through the new Travel and Tourism Recovery Grant Pilot Program. Through April 2021, MassDOT's Shared Streets and Spaces Grant Program has invested \$26.4 million in municipal Shared Streets projects to support public health, safe mobility, and renewed commerce.

In support of the overall recovery strategy, the Administration made \$9.5 million in awards for 125 communities to create Local Rapid Recovery Plans, through the MA Downtown Initiative Program. These plans address the impacts of COVID-19 on local downtowns and small businesses by partnering with Plan Facilitators and Subject Matter Experts to pursue locally-driven, actionable strategies.

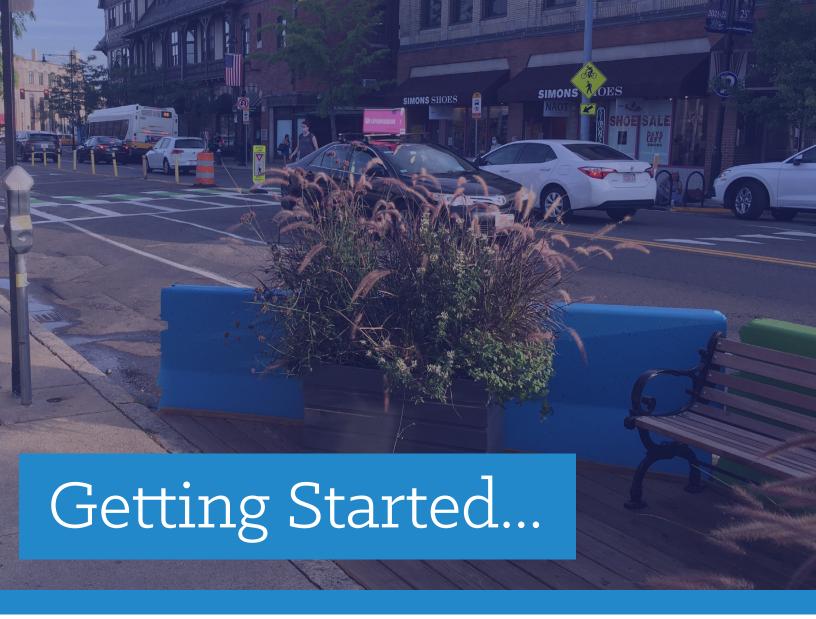
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Toolkit prepared by:



## Table of Contents

Getting Started			
Toolkit Checklist	p. 6		
Part 1: Guidelines for Communities	p. 8		
We want to streamline the process for businesses to create outdoor dining/retail under existing state regulations	p. 9		
We want to make our temporary/emergency outdoor dining/ retail regulations permanent	p. 21		
We want to provide design and materials guidelines to businesses	p. 24		
We are interested in facilitating bulk purchasing of materials and equipment to help businesses.	p. 36		
We want to consider clustered public spaces for outdoor dining	p. 39		
We are concerned about costs and impacts, including loss of public parking and/or parking revenue, and noise	p. 44		
We want to encourage winter outdoor dining	p. 48		
We want to enable outdoor dining in parks	p. 50		
We want suggestions for gaining public and political support	p. 51		
We want help identifying funding for implementing a business toolkit and for helping a business toolkit and for helping businesses in other ways	p. 53		
We want a template for our own complete outdoor dining/ retail Toolkit	p. 55		
Part 2: Putting It Together	p. 56		
Suggested Outline for a Toolkit/Resource Guide for Businesses	p. 57		
Example Design Guidilines	p. 59		
A: Parallel Parklet	p. 63		
B: Angled Parklet	p. 67		
C: Large Sidewalk Patio	p. 71		
D: Small Sidewalk Patio	p. 76		
E: Full Closure Street Plaza	p. 78		
F: Street Plaza with a Fire Lane	p. 83		
State Outdoor Dining/Seating Fact Sheet for Accessibility Requirements	p.85		



## Why this Toolkit

Outdoor dining and retail options in local commercial districts blossomed during the early days of the COVID-19 Pandemic as towns and cities made a quick pivot to respond to the needs of businesses and residents. Understanding potential benefits to long-term community and economic development, many businesses and communities now seek to make permanent the temporary outdoor dining and retail options that have sprouted up in their commercial areas.

This Toolkit responds to this need. In the Local Rapid Recovery Program, questions of outdoor dining and retail – enacting permanent ordinances, providing clear design guidelines, offering assistance on use of materials and perhaps even bulk purchasing, compliance with ADA, and navigating local and state regulations – have been among the most common issues raised during the planning process. Businesses want certainty before investing capital in furniture, construction, and equipment. Communities want to ensure outdoor dining and retail options are created with some semblance of aesthetic order and that they meet safety standards. This Toolkit presents the most common questions in the LRRP and provides a guide for each community to move forward in creating its own set of guidelines for businesses and internal streamlining of requirements.

## How to use this Toolkit

Think of this LRRP Toolkit as a guide for your own local government outdoor dining and retail decisions, regulations, and assistance to businesses. Every community is different, and some are further along than others in thinking through their outdoor dining and retail process. This Toolkit responds to the need for each community to take it's own unique approach by offering suggestions for design guidelines, asking a series of questions for municipalities, and providing examples from other communities. It's all about offering you flexibility and multiple options.

To this end, this Toolkit can be used by communities in three ways:

YOU NEED HELP ON A FEW INDIVIDUAL ITEMS FROM THE MUNICIPAL SIDE - things such as writing and passing bylaws and ordinances to make outdoor dining and/or retail permanent; streamlining permitting/ licensing; creating design and material standards, etc.

YOU WISH TO PROVIDE USEFUL INFORMATION AND ASSISTANCE TO BUSINESSES - things such as space guidelines for setting up socially distanced dining in a standard parking space; information on ADA requirements; suggestions or requirements on materials to be used, etc.

## YOU WANT TO CREATE A FULL OUTDOOR DINING/ **RETAIL STEP-BY-STEP TOOLKIT FOR BUSINESSES -**

a pdf/packet and perhaps online, with all the information a business needs to create an outdoor space, including municipal requirements and guidelines, as well as suggestions for space, materials, aesthetics, and more.

## **Toolkit Checklist**

Use this checklist to understand what you need and how this Toolkit can be most useful to you.

Par	t 1: Guidelines for Communities	
regar and, unde	will find a list of topics that your community may want rding outdoor dining/retail. Each topic includes possib in some cases, examples from other communities (in t rstanding that you don't necessarily want to reinvent to you do want to tailor it for your needs).	le solution :he
	We want to streamline the process for businesses to create outdoor dining/retail under existing State regulations.	p. 9
	We want to make our temporary/emergency outdoor dining/retail regulations permanent.	p. 21
	We want to provide design and materials guidelines to businesses.	p. 24
	We are interested in facilitating bulk purchasing of materials and equipment to help businesses and to get better prices for them.	p. 36
	We want to consider clustered public spaces for outdoor dining	p. 39
	We are concerned about costs and impacts, including loss of public parking and/or parking revenue, and noise.	p. 44
	We want to encourage winter outdoor dining.	p. 48
	We want to enable outdoor dining in parks.	p. 50

0-		
Pa	rt 1: Guideline for Communities (continued)	
	We would like guidance to conduct a robust	p. 51
	public process to get community feedback on	
	outdoor dining/retail ordinances.	
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	We want help identifying funding for	p. 53
	implementing a Business Toolkit and for providing help to businesses in other ways.	
	providing help to bosinesses in other ways.	
	We want a template for our own complete	p. 55
	outdoor dining/retail Toolkit. – See Part 2 for	
	this information!	
P	art 2: Putting It Together	
	utdoor dining/retail Toolkit and offers ready-to-use des insert in any document or online resources you offer	
	insert in any document of offiline resources you offer	
	Suggested Outline for a Toolkit/Resource	
		businesses.
	Suggested Outline for a Toolkit/Resource Guide for Businesses	p. 57
	Suggested Outline for a Toolkit/Resource	businesses.
	<ul> <li>□ Suggested Outline for a Toolkit/Resource</li> <li>Guide for Businesses</li> <li>□ Sample Design Guidelines</li> </ul>	p. 57 p. 59
	<ul> <li>Suggested Outline for a Toolkit/Resource Guide for Businesses</li> <li>Sample Design Guidelines</li> <li>State Outdoor Dining/Seating Fact Sheet</li> </ul>	p. 57
	<ul> <li>□ Suggested Outline for a Toolkit/Resource</li> <li>Guide for Businesses</li> <li>□ Sample Design Guidelines</li> </ul>	p. 57 p. 59
	<ul> <li>Suggested Outline for a Toolkit/Resource Guide for Businesses</li> <li>Sample Design Guidelines</li> <li>State Outdoor Dining/Seating Fact Sheet</li> </ul>	p. 57 p. 59
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	<ul> <li>Suggested Outline for a Toolkit/Resource Guide for Businesses</li> <li>Sample Design Guidelines</li> <li>State Outdoor Dining/Seating Fact Sheet</li> </ul>	p. 57 p. 59
	<ul> <li>Suggested Outline for a Toolkit/Resource Guide for Businesses</li> <li>Sample Design Guidelines</li> <li>State Outdoor Dining/Seating Fact Sheet</li> </ul>	p. 57 p. 59



Choose the critical sections to get started! To do this, we recommend that you gather all the relevant Town or City staff to discuss how to ease the process for businesses to extend their dining and retail to outdoor spaces. You might give staff a copy of this Toolkit and then discuss what elements you want to provide. Collaboration and cooperation are key here. Those communities that acted quickly during the early days of the Pandemic and made the process work best for staff and businesses where those that brought municipal departments and staff together to problem-solve and communicate constantly. That same spirit of cooperation and collaboration applies here...

## We want to...

# STREAMLINE THE PROCESS FOR BUSINESSES TO CREATE OUTDOOR DINING/RETAIL UNDER EXISTING STATE REGULATIONS.

When we say "streamline the process," it can include all or some of the following goals:

- Offer a **single application** for businesses to apply for permits and licenses to provide outdoor dining and retail.
- B Offer an **online application** to help businesses save time.
- Provide a checklist of all requirements.

Provide a **liaison at City or Town Hall** to guide businesses through the outdoor dining and retail rules and requirements.

Create a short-track or condensed timeline for permitting and approvals by coordinating Town or City inspections and reviews.

F Provide clear design guidelines and other requirements that take the guesswork out of providing outdoor dining and retail.

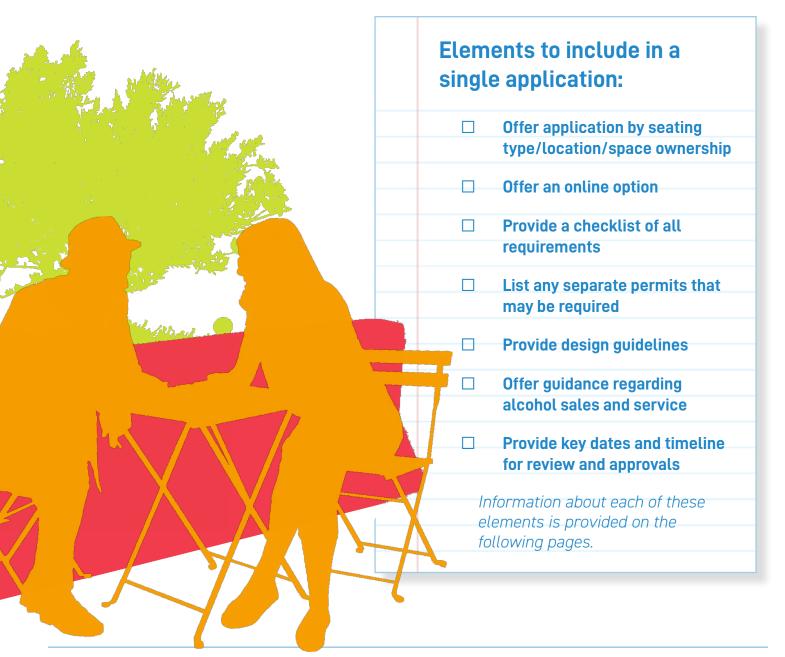
G Offer bulk purchasing of common items needed for outdoor dining and retail to get better prices for businesses and standardize select items that may be hard or confusing to source.



The choices on the previous page aren't mutually exclusive and you may choose to combine various methods of streamlining applications. For instance, some communities will offer a single, online application and also provide a short-tracked permitting and inspections process. If they offer design guidelines and a complete Toolkit for businesses (using this Toolkit as a guide, of course!), that's one more way to streamline the entire process for businesses. We cover these scenarios in various places in this Toolkit.

## Offer a single application for businesses to apply for permits and licenses to provide outdoor dining and retail.

Creating a single application makes a simple process for businesses and municipal staff. A single application replaces all other permit and license forms that would typically be required for outdoor dining or retail. One required application also gives assurances to businesses that they are not missing any key steps.



part o	nation that is typically required as f an outdoor extension application
includ	les:
	Business name and contact information
	Business manager and property owner
	ABCC license # (if applicable)
	Proposed hours of operation
	Location of outdoor seating (parking lot, sidewalk, etc.)
	Proposed number of tables and chairs and seating capacity
	Site plan and materials list
	Proof of Occupancy/Control of Premises" - usually a lease or a deed or written permission from property owner if not the licensee.

## Application by seating type/location/space ownership

Some municipalities opt to incorporate all types of outdoor seating into a single application and others have a different application depending on the type. For example, Brookline, MA has a single application on which the applicant selects their proposed outdoor dining type classified by location. As illustrated in Part 2 of this Toolkit, categorizing applications by the proposed location or by ownership of the space (public or private) makes good sense as different considerations (and different municipal permits and review) come into play if seating is proposed for the street or a sidewalk.



## How others are doing it...

### Single application requiring outdoor dining type by location Brookline, MA

1)	Co	nat type of outdoor dining configuration are you proposing? (See Outdoor Seating infigurations section of the Town of Brookline's Outdoor Dining Program Regulations and idelines effective April 1, 2021 for reference.)	
		Façade Seating: Outdoor seating located on the sidewalk immediately adjacent to a building	
		Curbside Seating: Outdoor seating located on the sidewalk along the curb	
		On-Street Seating: Outdoor seating located in parking spaces in front of a restaurant storefront.	
		<ul> <li>Protective concrete jersey barriers required for on-street seating. Contact Todd</li> </ul>	
		Kirrane, Transportation Administrator, to request review	
		of your location and installation of the jersey barriers.	
		Combination Façade & Roadway Seating	
		Combination Curbside & Roadway Seating	



## How others are doing it...

## Separate applications — private and public property

Northampton, MA Two applications, one for seating on **private property** and one for seating on

public property.

A general application that all applicants must fill out for outdoor dining, Worcester, MA

plus a supplemental application for use of a public sidewalk, which is in lieu

of the Sidewalk Use permit that would typically be require

Saco, ME Three separate applications for proposals on private property, public

sidewalk, and public parking. Applications can be submitted for both

outdoor dining and outdoor retail.

## What's happening at the State...

Per An Act relative to extending certain COVID-19 measures adopted during the state of emergency, a municipality's local licensing authority (LLA) can approve applications for an extension of outdoor table service until April 1, 2022 without the need to provide advance notice to abutters or hold a public hearing on the application. The State has not explicitly allowed this bypass for other forms of outdoor business, such as retail, other than table service.

At present, businesses that have been granted an outdoor extension of their premises through this expedited process will revert to their pre-approval status after April 1, 2022.



Boston, MA The City of Boston has a good example of an application checklist

## CITY of BOSTON 2021 Outdoor Dining Program: Application Checklist Before you submit your application, please review the following checklist. This checklist provides an overview of the documents that you will need to prepare and upload with your application. Please reach out to 2021outdoordining@boston.gov if you have any questions after reviewing. Documents required from every applicant: ☐ Copy of Licensing Board License: Please have ready a copy of your Licensing Board License (example here) to upload. You will also be required to enter your license number. ☐ Site Plan: A site plan drawing of the proposed outdoor dining extension will be required. This may be hand drawn. It will need to include square footage, access to and from the licensed premise, and location and number of tables and chairs. See the 2021 Guidance <u>document</u> for more information on site plan and site set-up requirements. **Recent Photo(s) of Proposed Location:** You will be required to upload at least one and up to three recent photos of the proposed location of the outdoor dining extension. These photos will be used to give reviewers a better understanding of the location, so please upload clear photos from several angles to assist with review. ☐ Photo of Proposed Barrier(s): You will be required to upload a cut sheet, diagram or image of the proposed type of barrier to be used to create separation from traffic (e.g. planters, water filled barriers, wooden barriers). Please note: Barriers are needed for both sidewalk seating and on-street seating. Legal Right to Occupy: If you are applying for an extension on private property, you are required to submit a letter from the landlord granting the right to utilize the space. If you are applying for an extension on public property, legal right to occupy will be granted if your application is approved through the 2021 program application. See the 2021 Guidance document for more information ☐ Certificate of Inspection: Please have ready a copy of your most recent Certificate of Inspection (example here), whether current or expired. ☐ Health, Safety and Operation Plan: Please have ready a Health, Safety and Occupation Plan that adheres to the information outlined <u>here</u>. These plans should include the following: ☐ Description of proposed service □ Structures separating patrons from (including staffing levels, days of the traffic week, hours of operation) ■ ADA accessibility lacktriangle Overview of how the extension will be ☐ Maintenance and storage plan (will tables separated from the non-licensed area and chairs be removed when not in & supervised

Source: https://docs.google.com/document/d/1LoOFKnBwFAyn7LwhymFI-eCY25Dtlvkf2J3ZYarzkWA/edit

operation)

□ Safety plan (what steps are being taken to

ensure materials do not enter the travel

□ COVID-19 precautions for

distancing plan

employees and patrons & a social

## List any separate permits that may be required

It is important to explicitly identify any required or optional elements that need a separate permit application from the business. It is up to the discretion of the municipality to decide which elements to include as part of the primary application and which require separate permitting. When possible, streamline the process by designating pre-approval for certain equipment and models that have been vetted to remove uncertainty on the part of the businesses. Common examples of things that may require separate municipal approval/permitting include:



## **Tents/Canopies**

Shrewsbury: All tents need a permit from the Building Dept.

**Brookline:** Tents or canopies exceeding 120 sq. ft. need a permit from the Building Dept.

**Boston:** Tents and canopies are not permitted in public outdoor dining spaces (umbrellas allowed). Tents on private property need approval from the Fire Dept. and Inspectional Services Dept.



## Platforms (for parklets)

**Boston:** For a parklet-style deck, a photo of the proposed deck location and sketch of the proposed deck, including materials, dimensions, and drainage clearance, are required.

Worcester: Decks, platforms, and other structures may require a building permit.



## **Outdoor Heaters**

Northampton: Provides guidance for use of heaters and requires inspection by the Fire Rescue Dept. and Building Dept. before operation.

**Brookline:** Temporary use of propane heaters must be approved by the Fire Dept. Electric heaters must be permitted by the Town's Electrical Inspector.



## Sidewalk Use/Obstruction

**Worcester: Supplemental** application for sidewalk dining required in lieu of normal Sidewalk Use permit



## Offer an online application

Online applications help ease the process for businesses and can be done two ways:

- If your municipality already has an online form center or portal for submitting permit **applications,** this is a streamlined way to allow applicants to attach any necessary uploads directly to their application and submit all in one place.
- If you don't have a public portal for applications and other submittals., an alternative option is to provide fillable PDFs that applicants can submit by email along with any other necessary attachments.

Hard copy applications should also be available upon request for applicants who may lack internet access or proficiency.



## How others are doing it...

Online portal and form center for business applications. Northampton, MA

Worcester, MA

Fillable PDFs that are emailed by applicants with required attachments.



## Provide a liaison at City or Town Hall

Designating someone as the single point person at City or Town Hall can help ease the process for businesses that have questions about outdoor dining permitting and provide one stop shopping. This liaison can also serve as the coordinator of staff and department requirements...providing a consistent presence and source of information. The liaison can also report back on barriers or challenges in the permitting process and initiative changes in response to real time feedback from businesses and public sector collaborators.



## E

## Create a short-track or condensed timeline for permitting and approvals

By coordinating Town or City inspections and reviews, and possibly eliminating or shortening some public review processes,\* the overall timeline from application to permit approval can be shortened, helping restaurants make quick pivots to retain customers and staff.

In addition, providing clear timelines for permitting...from application submittal through inspections and approvals, helps businesses stay on track and prevents misunderstandings and missed deadlines. Time is money for businesses; important information to include in the timeline includes:

- Date the application process opens (if applications are seasonal)
- Overall estimated time from submission to municipal decision
- Outline any public review periods that are required\*
- The application deadline and any intermediary deadlines, such as site inspections, municipal grants, or materials for loan (if applicable)
- When the outdoor dining/retail season begins and ends (if applicable)

\* Your community may wish to eliminate or shorten public review periods for outdoor dining and retail applications in instances where all design guidelines and other criteria are met by the applicant with no requested waivers.



## How others are doing it...

Boston, MA

An example of a timeline of key dates from **Boston's 2021 Outdoor Dining Pilot Program website** 

## **KEY DATES**

### **DECEMBER 9, 2020:**

The 2021 Outdoor Dining Pilot program announced. Our online application opens for Licensees on this date.

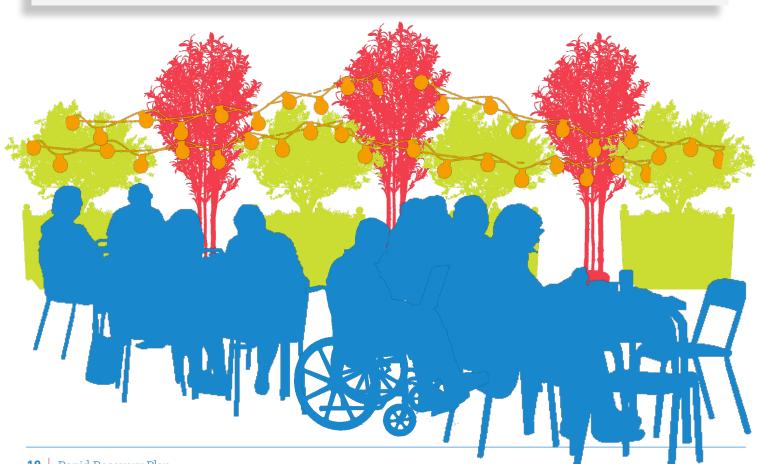
### **JANUARY 18, 2021**:

The initial deadline for licensees to submit an application to receive a decision or follow-up questions from our team by February 19, 2021. Licensees may also submit an application after this date to participate. We review these applications on an ongoing basis.

### FEBRUARY 19, 2021:

We will notify licensees of approvals or requests for more information by this date if they submitted their application by January 18, 2021.

Key Dates as shown on the City of Boston's Website, Source: https://www.boston.gov/departments/licensing-board/2021-outdoor-dining





## Provide clear design guidelines and other requirements including alcohol licensing checklist of all requirements

Businesses have expertise in menus, food, dining experiences for customers, service, and in the case of outdoor retail, displays and signage. The design and construction of outdoor dining and retail can stymie the most sophisticated business owner...it's just not part of their expertise and experience. Guidelines can help! If you wish to provide guidelines for businesses, see the separate section on this topic below and actual guidelines in Part 2.

## What's happening at the State...

The Massachusetts Alcoholic Beverages Control Commission (ABCC) has the following general regulations for licensed established to serve alcohol on patio and outdoor areas:

- i. Alcoholic beverages cannot be served outside of a licensed establishment unless and until an application to extend the licensed premises has been approved.
- ii. An application to extend the premises must describe the area in detail, including dimensions, seating capacity, and maximum occupancy.
- iii. The premises must be enclosed by a fence, rope, or other means to prevent access from a public walkway.
- iv. The outdoor area must be contiguous to the licensed premises with either (a) a clear view of the area from inside the premises, or, alternatively (b) the licensee may commit to providing management personnel dedicated to the area.
- v. The applicant must have a lease or documents for the right to occupy the proposed area.
- vi. The licensing authorities should consider the type of neighborhood and the potential for noise in the environs.
- vii. Preferred are outdoor areas where alcohol is served to patrons who are seated at the tables and where food is also available.



Previously, an application to extend the licensed premises to serve alcohol in a new outdoor area had to be approved by both a municipality's local licensing authority (LLA) and the ABCC. However, per Bill S.2475, An Act relative to extending certain COVID-19 measures adopted during the state of emergency, LLA's have been granted the authority to approve the extension of licensed premises until April 1, 2022 without the need for ABCC approval. This means allowing alcohol service in a public outdoor space, including a space across the sidewalk, is fully at the discretion of the LLA. After approval, the LLA must notify the ABCC of the amended license.

As with outdoor dining in general, businesses that have been granted an outdoor extension of their premises for alcohol service through this expedited process are presently scheduled to revert to their pre-approval status after April 1, 2022. If a business is seeking to extend their premises for outdoor alcohol service beyond April 1, 2022, they must follow the ABCC's usual regulations for Alteration of Premises/Change of Location. This consists of submitting an application to the LLA for approval, which then gets forwarded to the ABCC for approval.

Businesses that wish to serve alcohol in an outdoor space that does not fit the regulations above, such as in a non-adjacent space or without table service, can apply for a One-Day Special Permit through their LLA. Restrictions on the type of alcohol that can be sold vary depending on the type of business and the nature of the event. For-profit events may only sell wine and/or malt beverages under the One-Day Special Permit. This permit can only be utilized for a single day, but there is no limit to the number of permits a business can apply for, only that they cannot be granted to an individual person more than 30 times in one calendar year.

## Offer bulk purchasing of common items needed for outdoor dining and retail

Some equipment or materials may be specialized and also need to meet safety requirements. Items such as outdoor heaters have to meet fire safety or electrical codes, and the storage of propane fuel, if used, can be complicated. Additionally, items such as platforms to raise on-street parking spaces to sidewalk height are fairly standardized but require construction knowledge and structural design. To get better prices for businesses and standardize select items that may be hard or confusing to source, towns and cities may choose to bulk purchase items on behalf of businesses. If you are interested in doing this, see page 36 for additional information.

## We want to...

## MAKE OUR TEMPORARY/ **EMERGENCY OUTDOOR DINING/** RETAIL REGULATIONS PERMANENT

Communities are now considering the next steps to shift from temporary/emergency outdoor dining and retail measures to permanent zoning and bylaw changes. The cost of a small outdoor seating area in a public parking space can be well over \$25,000, including materials, construction costs, and new furniture and equipment. For many small businesses, this size of capital investment is a challenge, and even more so if there is no certainty regarding the ability to continue outdoor operations post-Pandemic. Instituting permanent zoning and bylaw changes provides certainty for everyone involved.

## **Zoning Code Changes**

Zoning code and bylaw changes can make outdoor dining and retail options permanent throughout a municipality or in selected geographic areas or zones. Some considerations should be:

What boards and committees must review any proposed changes, and what time is needed to do that? Examples can include: economic development committee; business district committee; planning board; city council or town selectboard, etc.

Allow enough time to enact permanent changes before any municipal emergency/COVID-19 **outdoor dining and retail programs expire.** We recommend six months, if possible. Your community may have to extend its emergency COVID-19 program in order to keep something in place until a permanent program can be adopted.

Consider any limitations you currently have on the length of time outdoor seating is allowed at any **one time.** Some communities limited outdoor seating to six months, or to actual dates. Should these be lifted? Do you wish to encourage year-round dining? See the section on winter outdoor dining below for additional information

Which temporary outdoor dining/retail measures or program elements do you wish to retain? What additional guidelines or elements do you wish to add to a permanent program? We hope this Toolkit provides useful information to answer these questions.

What are the benefits and costs for a permanent program? See the separate section below for information on what to consider.

## The Importance of Local Voices

Some key temporary changes that were made to streamline the outdoor dining permitting process in response to the COVID-19 Pandemic were done at the state level. This included eliminating some public process requirements that can slow implementation, such as holding a public hearing and giving advance notice to all abutters, and forgoing the need for the ABCC to approve outdoor extensions of premises to serve alcohol.

While individual municipalities may not have the power to make permanent changes to these state laws, they can be influential voices to advocate for permanent adoption of temporary changes that have proven beneficial to their business communities. Local business organizations, chambers of commerce, and municipal leaders and staff should make their preferences known and provide stories of the positive benefits they have seen from COVID-19 temporary changes to their state Representatives.





## How others are doing it...

## Haverhill, MA

In 2004, the City of Haverhill, MA enacted an Outdoor Dining Permit Ordinance that defined and streamlined the outdoor dining process within their Commercial Center zoning district. In response to higher demand during the COVID-19 Pandemic, they streamlined the permit approval process further by moving initial permit application review from the License Commission to Inspectional Services. Using OpenGov, after Inspectional Services gives approval, it automatically triggers the application to be sent to the City's other regulatory bodies that need to review.

## Brookline, MA

Brookline, MA is seeking to adopt new General and Zoning Bylaws to create permanent outdoor dining in the town by:

Extending the outdoor dining season from a 6-month maximum to vear-round

- Allowing outdoor seating in parking space parklets and privately-owned areas adjacent to restaurants
- Streamline the application process by replacing Planning Board review with Planning and Community Development Department staff review

At **2021 Spring Town Meeting** the Brookline Select Board voted in favor of these changes, following a presentation of rationale delivered by the Department of Planning and Community Development.

## New York, NY

New York City is working on a permanent **Open Restaurants** program that would change zoning text to remove geographic restrictions on where in the city sidewalk cafes can be located and consolidate all applications under one agency.

## We want to...

## **PROVIDE DESIGN AND MATERIALS GUIDELINES TO BUSINESSES**

## **Design Guidelines**

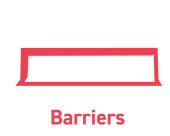
Perhaps the greatest positive impact a municipality can provide to businesses is to offer design guidelines for outdoor dining and retail spaces. These guidelines can save time – for research, design, codes compliance, ADA requirements, etc. Strong guidelines can also be critical to convince municipalities that they can allow uses by right, if the guidelines are met, and eliminate or reduce discretionary review.

Part 2 of this Toolkit contains sample design guidelines for a variety of outdoor dining and retail situations. Municipalities may distribute relevant samples to businesses in their communities as guides or use these samples as a resource to create their own guidelines. All outdoor dining and retail must meet state accessibility requirements; Outdoor Dining/Seating Fact Sheet for **Accessibility Requirements** is attached to this Toolkit at the end of Part 2.

When establishing guidelines for outdoor spaces adjacent to the curb, whether on the sidewalk or in on-street parking, it is important to identify existing curbside uses that prohibit the implementation of outdoor dining or retail.

## **Materials Guidelines**

Materials guidelines can help provide an overall aesthetic framework while allowing businesses to express their individual brand/style and meet any code or other municipal requirements. There are several categories of materials that must be considered for an outdoor dining or retail space:









**Parklets** 

## **Barriers**

There are two categories of barriers that a business may need to use: protective barriers and separation barriers.

Protective Barriers are used when an outdoor space overlaps/abuts with motor vehicle space, with the most typical scenario being the use of a parking space in the street or in an active parking lot. Protective barriers are sturdy and heavy and must meet any requirements of local Department of Public Works or Transportation Department. A common practice is for the municipality to provide and install these barriers and remove them at the end of the outdoor dining/retail season, if applicable. Examples include concrete and water-filled jersey barriers and heavy planters, such





## How others are doing it...

Boston, MA

In its **outdoor dining guidance document**, the City of Boston has identified the following curbside uses where conflicting outdoor dining requests will not be approved:

- 10' clearance on either side of a fire hydrant
- Handicap accessible parking
- No stopping
- Travel lane
- Bike lane

- Bus lane
- Crosswalk
- Fire access lane
- Bus stop
- Bike share station
- Car share space

as those weighted with sandbags. Protective barrier height minimums and maximums vary by municipality, though these are typically at least 30" high. The required extent of protective barriers varies by municipality, but at a minimum they should be placed where there are potential conflicts with forward-moving traffic.

Jersey barriers and water-filled barriers lack aesthetic appeal, and various strategies exist to beautify these enclosures, including treating the jersey barriers as a canvas for paint (see example below). We suggest another strategy which could benefit from municipal coordination: at 24" wide, iersey barriers take up considerable room and restaurants often then add another material or screen on the dining side of the barrier for aesthetic reasons and to support planter boxes, lattice, etc. Combining the aesthetic treatment with the barrier itself could reduce the space needed and provide a good solution to beautifying the barriers. A standard enclosure for this barrier consisting of a box, constructed of marine-grade plywood, with a planter space built in at the top could improve aesthetic appeal and regularity while allowing for individualization for each outdoor dining or retail area through the paint and details used.



## How others are doing it...

Beverly, MA Salem, MA

Some businesses are paying artists directly to paint jersey barriers around their outdoor dining spaces. In other cases, cities and nonprofits are covering costs and providing a framework for a larger beautification effort around outdoor dining and retail barriers. In downtown Beverly and Salem, the Creative Collective's "Jersey Barrier Beautification" Project" has used \$35,000 to pay approximately two dozen artists to paint jersey barriers. Artists' payments run \$200 per barrier and up.



Colorfully painted protective barriers outside of Bambolina Restaurant in Salem, MA. Source: Karl Alexander

In most cases the appearance and maintenance of barriers is the responsibility of the business using them, and allowing businesses to paint or decorate barriers can create a more inviting and visually pleasing space or streetscape. An optional program add-on could be a public art project through competition or general matches of artists with businesses. Municipalities might consider providing grants to pay artists to paint jersey barriers and other protective barriers along the public street or right-of-way.

Separation Barriers are not intended to provide protection but are used to demark outdoor dining or retail space from pedestrian or public space. Planters, fencing, and lattice are commonlyused separation barriers. For spaces in parking areas, separation barriers are used where protective barriers are not present to create a full enclosure with no gaps leading to vehicular circulation areas.



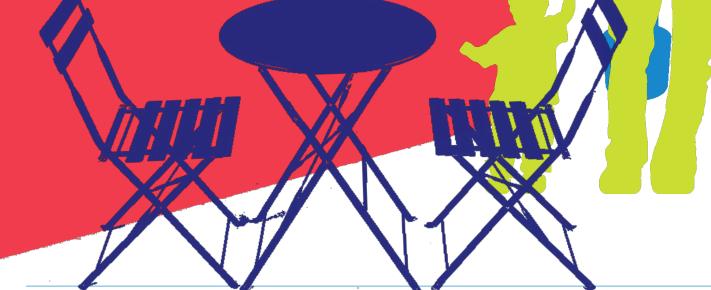
Wood and screens are used to create separation barriers for a sidewalk café outside of a New York City restaurant.

## **State Regulation**

Per ABCC state regulations, any outdoor space where alcohol is being served, whether public or private, must also be enclosed by barriers to prevent access from a public walkway. For outdoor spaces not in a parking area and without alcohol service, separation barriers are not universally required, and it is up to the discretion of the municipality to decide when they are needed.

Regardless of the type of barriers used, they should not be bolted down or fastened to the ground or other objects without municipal approval. The outside of barriers in a parking area may also need reflective strips if they do not already have reflective surfaces.

It should be noted that while the use of jersey barriers and other protective barriers has been implemented as standard operating procedure for outdoor dining in communities across Massachusetts, this standard was designed as part of rapidly rolled out programs using available equipment and is not based on universal best practices In other parts of the country and the world, outdoor dining has been implemented with minimal or no protective barriers, which has certain benefits including sleeker and more attractive design and easier setup and removal, particularly in preparation for snow storms in areas where outdoor dining operates year-round. As municipalities are formulating permanent regulations to allow outdoor dining, additional research is needed on the value of protective barriers, including providing real safety benefits as well as customer perception of safety.

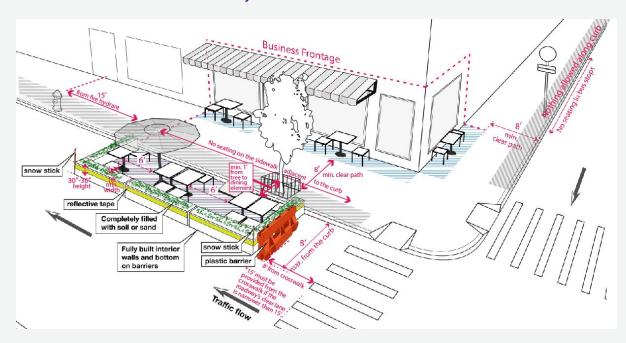




## How others are doing it...

New York, NY

Protective barriers at least 18" wide are required on the side of the outdoor dining enclosure facing forward-moving traffic. As an alternative to jersey barriers, businesses are allowed to use barriers that are completely filled with soil or sand. The City has standardized the enclosure required for all outdoor dining in public parking spaces on the roadway to include planter boxes which, while having set dimensions, can be decorated and filled as each business desires. This is an effective approach to creating some visual order while allowing individual creativity at each business.



Source: Open Restaurants, New York City Department of Transportation



## How others are doing it...

Portland, OR

Outdoor dining areas in parking spaces on streets with speed limits of 25 MPH or less do not require protective barriers (separation barriers are required). On streets with speed limits higher than 25 MPH, a traffic control plan is created in coordination with the City's transportation department.



## **Furniture**

For outdoor dining spaces, furniture typically consists of tables, chairs, benches, and bike parking, and perhaps a type of overhead covering, such as umbrellas, tents, or awnings. Outdoor retail furniture can include racks, tables, merchandise stands, and shelving. Access within the space and access to, and use of, the furniture must comply with the state accessibility requirements, included in Part 2. Individual municipalities may have additional accessibility requirements or guidelines that affect furniture placement and considerations. If this is the case, we strongly recommend your municipality specify that your requirements are inclusive of state requirements OR combine your local requirements and the state requirements into one document...including the most stringent, as applicable, so that businesses do not have the confusion of comparing and choosing between the two.

When not in use, furniture should be brought inside or secured and locked together to prevent any possible obstruction of the public right-of-way. Furniture should not be stacked outside or secured to any other objects, such as trees, streetlights, or barriers. As with barriers, businesses are responsible for maintenance, and furniture should be easily movable and not bolted or fastened to the ground.

## **State Regulation**

Per the **Governor's COVID-19 Order No. 35**, overhead covering must have at least 50% of the perimeter open and unobstructed by siding at all times. For example, if a tent is used, at least two sides must be open to the air without walls or siding. As mentioned earlier in Part 1, tents or canopies often require separate permitting to ensure they are set up and secured properly, that they are not fire hazards, and that they don't obstruct sightlines for road users. Umbrellas are normally allowed without separate permitting granted they meet the same conditions.



## Heaters

Heaters are an important consideration for outdoor dining, especially to extend the outdoor dining season or when allowing all-season outdoor dining. Like canopies, separate permitting is often required for heaters to ensure they are in compliance with regulations and not fire or safety hazards. The two types of commonly used heaters are propane heaters and electric heaters. Municipalities are encouraged to continue adhering to their existing permitting and regulations for heaters.

While portable heaters are often less expensive than installing electric heaters (which require building permits and a licensed electrician), a particular obstacle for the use of propane heaters is the requirement for storage of propane tanks, which should not be stored inside buildings but only in approved structures or cages.



## How others are doing it...

Brookline, MA

As a resource, the Town of Brookline, MA established a pilot program for permitting portable propane patio heating equipment to support businesses in establishing outdoor dining.



## **Parklets**

## **Accessibility of Spaces - Ramps and Parklets**

The common scenario of outdoor dining in an on-street parking space presents a challenge for accessibility. The difference in grade level between the sidewalk and street is typically a 6" curb height. To meet accessibility requirements, a ramp to access the lower street level from the sidewalk or a full platform (also known as a parklet) to bring the street level space up to sidewalk level must be constructed.

Platform parklet with a ramp, Portland, Maine



Diners eat on a parklet in New York City.



Platform dining, Portland, Maine

## Ramp

Accessible ramps must have a maximum slope of 1:12 which means for every 1" in grade difference the ramp must be 12" long. This requires a 6' long ramp for a 6" curb height. Ramps should be a minimum of 4' wide and must have 4' of clear space at the bottom and top. The size requirements for a ramp cuts into usable outdoor dining and retail space and while less expensive to construct than a full platform, may be impractical for smaller outdoor areas. Part 2 has more information about ramps.

## Platform/Parklet

A parklet is an extension of the sidewalk into an onstreet parking space made from temporary materials; the platform brings the street space level with the sidewalk. The construction of parklets to create new outdoor dining spaces became a popular and important tool during the COVID-19 Pandemic for restaurants that otherwise would not have had access to outdoor seating. A platform eliminates the need to provide a ramp to the dining or retail space and can also provide a level surface over a street that may have an uneven surface (cobblestones) or be sloped. The platform used for a parklet also allows the adjacent sidewalk to be an extension of the outdoor dining or retail space, if there is sufficient room.

The disadvantage of parklets is that they can be expensive and challenging for a business to build on its own, as even simple parklets can cost thousands or tens of thousands of dollars when factoring in the expense of design, materials, labor, and permitting. The change in level from the platform to the street requires a continuous barrier and railing around the space and also requires posts at corners to make this platform visible to vehicles. This Toolkit provides the basics for design and construction in Part 2, and any funding resources the municipality can provide will make this process easier for businesses.

The National Association of City Transportation Officials (NACTO) has created a short <u>design guide</u> <u>for parklets</u>, including the critical, recommended, and optional elements to consider. Among the most important things to keep in mind is that parklets must not interfere with the water drainage in the street, and they must be consistent with the state's <u>outdoor dining/seating accessibility</u> <u>requirements</u>. Another useful resource is Parkade's <u>parklet guide</u>, which includes design tips and options, materials options, and suggestions for constructing an affordable parklet.

## CRITICAL

To ensure visibility to moving traffic and parking cars, parklets must be buffered using a wheel stop at a desired distance of 4 feet from the parklet. This buffer may also serve as a space for adjacent property owners to accommodate curbside trash collection.

Parklets should have vertical elements that make them visible to traffic, such as flexible posts or bollards.

+ More Info

Parklets have a desired minimum width of 6 feet (or the width of the parking lane). Parklets generally entail the conversion of one or more parallel parking spaces or 3–4 angled parking spaces, but may vary according to the site, context, and desired character of the installation. Where a parklet stretches the length of an entire curb, accessibility and sightlines must be taken into account.

+ More Info

The design of a parklet should not inhibit the adequate drainage of stormwater runoff. Small channels between the base and the platform facilitate drainage.

Parklets should have a flush transition at the sidewalk and curb to permit easy access and avoid tripping hazards.

+ More Info

### RECOMMENDED

Parklets should avoid corners and are best placed at least one parking space away from the intersection corner. Where installation of a parklet is under consideration for a site near an intersection, volumes of turning traffic, sightlines, visibility, and daylighting should be taken into account.

Parklets should be heavy enough to make theft impossible or unlikely. Site selection should consider the level of surveillance both during the day and at night.

Incorporate seating into the parklet. Seating may be integrated into the design itself or made possible with moving tables and chairs.

+ More Info

Designs for the sub-structure of a parklet vary and depend on the slope of the street and overall design for the structure. The sub-structure must accommodate the crown of the road and provide a level surface for the parklet. "Bison pedestals" spaced under the surface and of different heights are a common application. Another method is to provide steel sub-structure and angled beams.<sup>4</sup>

+ More Info

Parklets should use a slip-resistant surface to minimize hazards and should be accessible to wheelchair users.

Parklet floor load-bearing weight standards vary by agency. At a minimum, design for 100 pounds per square foot.<sup>5</sup>

Include an open guardrail to define the space. Railings should be no higher than 3 feet and be capable of withstanding at least 200 feet of horizontal force. 6

Parklet siting should avoid obstructing underground utility access and electrical transformer vaults.

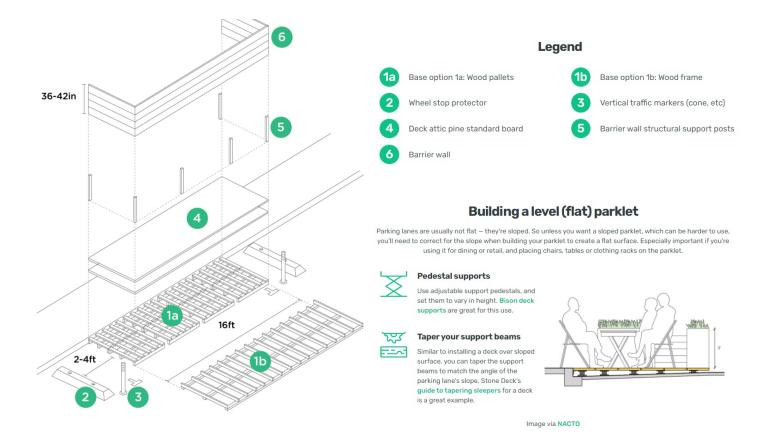
### OPTIONAL

The design of any individual parklet may vary according to the wishes of the primary partner or applicant. Designs may include seating, greenery, bicycle racks or other features, but should always strive to become a focal point for the community and a welcoming public gathering place. Cities may opt to have a standard design template to reduce design and construction costs for applicants.

+ More Info

Bicycle parking may be incorporated into or adjacent to the parklet.

Source: NACTO Parklet Design Guidelines. Source: National Association of City Transportation Officials



Parkade's guide includes a diagram of how to construct an affordable wooden parklet. Source: Parkade Complete Guide to Parklet and Streeteries. https://parkade.com/parklet-guide-and-how-to-build-a-parklet.

All in all, the design, permitting, and construction of outdoor dining and retail is expensive. Materials, design drawings, construction, and purchasing tables, chairs and other equipment are not insignificant capital investments. Municipalities and businesses associations can play a role in making parklet construction more affordable (see the next section on bulk purchasing). The state also offers several funding opportunities that municipalities and businesses can take advantage of to support parklet construction, such as:

- **Complete Streets Funding Program**
- **Commonwealth Places**
- **Community One Stop for Growth**
- **Shared Streets and Spaces Program**
- **Massachusetts Growth Capital Grants and Loans**



## We are interested in...

## FACILITATING BULK PURCHASING OF MATERIALS AND EQUIPMENT TO HELP BUSINESSES.

The costs for buying materials and constructing and maintaining outdoor dining can be prohibitive for a small business. Municipalities may consider instituting a bulk purchase policy for reimbursement by businesses to get better prices and to help assure businesses that equipment such as heaters meet code and requirements. In addition, municipalities can offer delivery, pick-up, and provision of other materials, if desired.

## **Bulk Purchase Program**

This process should start with an in-house assessment of resources and capabilities, as well as mechanisms for repayment of equipment costs by businesses (or grants to cover costs, if applicable). Municipalities should also consider coordinating efforts with multiple businesses through a business association or a Business Improvement District (BID) to investigate the most viable option for a bulk purchasing program. The most feasible items for bulk purchasing include equipment that must meet stringent code or permitting requirements, such as:

- Portable heating equipment
- Fuel (propane) storage equipment
- Outdoor communal storage for inclement weather
- Umbrellas
- Parklet platforms (constructed to building code and available in modular components the size of a standard on-street parking space)

Recommended steps to institute a bulk purchasing program:
□ What are the resources and capabilities of your municipality?
☐ Is there a staff member who can oversee a bulk purchase program?
☐ What department can best do this (DPW, Parks, Planning, Transportation, Facilities)?
☐ What are the mechanisms for payment by the businesses for equipment procured by the municipality? Can this be incorporated into an existing online fee payment structure (used by building department, tax clerk, etc.)?
☐ Can your municipality apply for a grant(s) to cover the cost of the program?
☐ Is there a business association, chamber of commerce, or BID with whom you can partner? Can they take on oversight of the program with collaboration from your municipality?
☐ Take a survey of businesses to assess interest and develop a list of needed furniture and/or equipment that would be good candidates for bulk purchasing.
Get prices for bulk purchase based on the items identified in the business survey.
☐ Arrange for payment for items/payment commitment from businesses

#### Resources

There are a host of restaurant supply companies that offer a range of heating products. Municipalities interested in bulk purchasing should investigate online sources for outdoor heating equipment and tables/chairs as well as talk to business owners who have made equipment purchases to identify possible bulk purchase options. We also encourage contacting area trade schools and trade unions about contracting for construction of platforms for parklets. Finally, using portable storage pods and placing them in a common area in a remote section of a public parking lot or extra alley space could help solve winter storage of equipment for multiple businesses if outdoor dining is seasonal.



## We want to...

# **CONSIDER CLUSTERED PUBLIC SPACES FOR OUTDOOR DINING**

Clustering outdoor dining spaces on public property may be a desirable option. If several businesses along a stretch of commercial area are interested in creating outdoor dining, it may be more space- and cost-effective to coordinate these efforts together. Creating a larger coordinated outdoor dining zone could also be an effective strategy to activate a public space and attract more visitors. Clustered outdoor dining can be operated in two ways: business-managed and municipality-managed.

## **Business-managed**

In this scenario, your municipality would provide a general outdoor dining area that can be used by adjacent restaurants only (this would allow liquor service as per current State regulations).

- Space is used by multiple designated adjacent restaurants. Each restaurant is allocated a specific space.
- Municipality provides overall protective barriers for the entire space, if needed by local regulations.
- Restaurants are responsible for providing tables and chairs and for sectioning off their designated area.
- Cleaning of tables, maintenance, and movement of furniture, if required, is the responsibility of individual restaurants.
- Adjacency of space allows restaurants to serve alcohol.

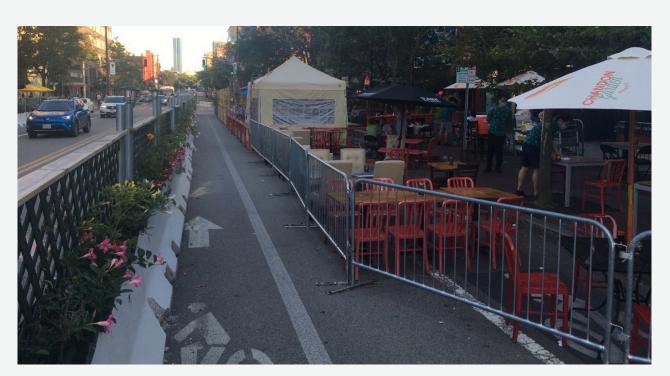


## How others are doing it...

#### Cambridge, MA

The City of Cambridge, MA has provided a number of these larger dining areas in business districts including in Central Square, Harvard Square, Kendall Square, and Inman Square. These **flexible spaces** have offered increased opportunities for outdoor dining where adjacent sidewalk or parking areas aren't available for every business. On a section of Cambridge Street in Inman Square, the City has temporarily closed vehicular traffic in one direction to allow outdoor dining to expand into the street.

From the City of Cambridge website: "At permitted locations across the city, restaurants will be responsible for providing tables and chairs according to social distancing guidelines and sectioning off their outdoor dining areas each day. Due to liquor license requirements and to ensure that the tables are cleaned between each use, these new outdoor dining areas will be designated for use by the adjacent restaurants. Where possible, the outdoor dining areas may be used for loading or parking when they are not being used for dining."



A business-managed outdoor dining cluster in Cambridge's Central Square. Source: CivicMoxie



#### Northampton, MA

Northampton, MA temporarily closed Strong Avenue in its downtown to implement "Summer on Strong," a collaboration between the City and businesses on the street to offer expanded outdoor seating and musical performances during the summer. Funding for the effort largely came from sponsors, including some local businesses<sup>1</sup>.



"Summer on Strong" outdoor dining. Source: Karl Alexander

1: Feldman, Luis. "'A little alfresco': Strong Avenue makeover provides new outdoor dining experience in Northampton." Daily Hampshire Gazette. May 26, 2021. https://www.gazettenet.com/StrongAvenuehg-05252021-40642962.

## **Municipality-managed**

In this scenario, your municipality would provide a general outdoor dining area that can be used by anyone who is bringing their own food or who purchases takeout from a nearby restaurant, similar to a food court.

- Space is used by anyone. There are no allocated spaces for individual restaurants.
- Space can be as small as one table with benches or chairs, or larger.
- Municipality provides overall protective barriers for the entire space, and all tables and chairs.
- Municipality provides overall maintenance and upkeep of space (furniture, signage, major sweeping and trash removal) if needed by local regulations.
  - Table cleaning can be accomplished three ways:
    - 1. Municipality provides cleaning/sanitizer stations
    - 2. Nearby restaurants provide general cleaning (understanding that the space benefits their takeout business)
    - 3. Signage indicating that users of tables are responsible for own cleaning/ sanitizing
- No alcohol is allowed in the space.

It is recommended that your municipality look at an overall plan for providing seating and tables throughout your commercial district to ensure you are making the best use of public space and offering the most support possible to local businesses.



#### Brookline, MA

During the 2020 COVID-19 shutdown, the Town of Brookline sought opportunities to provide as much seating and table space in the Coolidge Corner commercial district to help businesses that had no adjacent usable public space for outdoor dining and retail or that didn't have the resources for quick buildout of outdoor dining. By identifying all possible locations for different opportunities for resting locations, seating, and eating spots, the Town was able to have a larger plan about which public spaces should be prioritized for seating and dining locations. These spaces were meant to supplement any business efforts to provide outdoor dining.



Source: Town of Brookline and CivicMoxie, LLC.

## We are concerned about...

# **COSTS AND IMPACTS, INCLUDING LOSS** OF PUBLIC PARKING AND/OR PARKING **REVENUE, AND NOISE**

There are municipal costs involved in permitting outdoor dining and retail, as well as community benefits. Being clear about the costs and benefits, as well as potential negative impacts, can help your community make educated decisions and tailor an outdoor dining and/or retail program to fit your needs and resources.

## Loss of parking spaces

Enabling expanded outdoor dining or retail often involves the conversion of parking, both onstreet and surface lots, into dining and retail spaces. The loss of these spaces is a concern, both for merchants and the customers who frequent these business districts. This concern is especially pertinent if the business area is not easily accessible by walking or public transit, so vehicle trips cannot be replaced. While loss of street parking to parklets can contribute to a parking shortage, this is more likely to result from the conversion of private business parking lots into larger outdoor dining or retail spaces. Without parking alternatives, such as a garage or public lot, an unintended consequence could be the use of nearby residential streets as overflow parking, especially if there are no parking restrictions in those neighborhoods. It is important for planners and those granting permits for outdoor dining and retail to consider the transportation options and capacities of their business areas and neighborhoods when making permitting decisions.

When possible, advance notice of the planned removal of parking spaces should be posted both physically at the parking spaces and online. It is also important to emphasize that decisions to remove parking were made in collaboration with and with the support of the local business community.

## Loss of parking revenue

Loss of metered on-street parking or parking spaces in municipal pay lots translates to a loss of revenue for the municipality. Quantifying this expected loss is an important first step in addressing concerns (see example below from Brookline, MA). Support of the entire business district is a public good and benefits residents by helping retain local businesses and services. A robust commercial district also contributes to property tax revenue and the jobs base. The loss of parking revenue is

often more than offset by higher property, meals, and rooms taxes.

However, if a municipality wants to make up expected lost revenue from the conversion of a metered space to a parklet, there are several possible strategies that can be employed:

- Replace lost meters by converting existing free parking spaces to new metered spaces.
- Increase the fees at the remaining parking meters to cover expected losses.
- Charge a fee to the business that will be using the metered space. One way to determine this fee is to calculate the expected lost revenue from the loss of the parking space.
- Implement or increase a **local meals tax** to generate new revenue.

## Administrative and material costs

Administering an outdoor dining and retail program takes staff time from a number of departments and costs should be considered for:

- Permit application review
- Assistance to businesses (and staff to aid in streamlined processes)
- Materials such as jersey barriers (cost of materials and delivery/pick-up/re-positioning)

## Noise

Another common concern of municipalities about expanded outdoor dining and retail is an increase in ambient noise, particularly in the evening, that disrupts residents. Despite the concern, investigation into this issue suggests that most communities who have implemented temporary outdoor dining have received few noise complaints, if any at all. This is likely because outdoor dining tends to be located in more commercial or dense areas where there are fewer residents, and residents living in those areas are accustomed to ambient noise into the early evening.

Since the most likely source of complaint is disturbance in the later evening, one solution is to set an earlier cut-off for hours of operation for outdoor dining or retail. For example, the Cities of Boston and Haverhill have restricted hours of operation for outdoor dining to 10 PM Sunday through Thursday and 11 PM Friday and Saturday, though restaurants may stay open later than this for indoor dining. If a city or town wishes to set more restrictive hours of operation for businesses in more residential zoning districts, this can be built directly into an outdoor dining or retail ordinance.

Another potential source of noise concern is from outdoor entertainment, such as music or televisions, as this is often louder and travels farther than patron conversations. If this is a major concern in the short-term, one option is to ban outdoor entertainment, as the City of Boston did for their 2021temporary outdoor dining season. However, this is likely not a good solution for communities that are seeking to create permanent outdoor dining regulations. If your municipality has a permitting process for outdoor entertainment licenses, it may be desirable to keep this separate from the outdoor dining or retail permitting process to streamline approval for dining or retail, while maintaining the ability to look more closely at outdoor entertainment on a case-bycase basis.



# How others are doing it...

#### Northampton, MA

One of the lessons learned from the COVID-19 Pandemic is that municipalities, businesses, and residents must be willing to be creative and adapt to new situations. In response to noise complaints from neighbors regarding loud music at one restaurant, the Northampton License Commission voted to add pertinent restrictions to the restaurant's entertainment permit, including ending outdoor performances one hour earlier and banning the use of amplifiers. This solution allowed the restaurant to continue to offer outdoor entertainment while addressing the neighbors' needs.

It is good practice to be explicit in your materials to businesses that they should be considerate of neighbors regarding noise, and to provide information about reporting concerns (noise and otherwise) in a logical and accessible location. For example, the City of Worcester has contact information and instructions for reporting concerns on their **Temporary Outdoor Dining** Program webpage, shown below.

## REPORT A CONCERN

Adherence to operating requirements and safety standards is an important component of the Temporary Outdoor Dining Program. To report a concern regarding the operation of a Temporary Outdoor Dining installation, please contact License Commission staff at License@worcesterma.gov.

- · Describe the location, date/time and nature of the compliant.
- Provide your name and contact info (optional, but recommended).



# How others are doing it...

Brookline, MA

In its efforts to extend temporary outdoor dining to a permanent zoning bylaw change, the Town of Brookline quantified the estimated costs of the program for a typical outdoor dining space using on-street parking. This information allowed Town Meeting, the Planning Board, Selectboard, and others, to weight the benefits and costs when making decisions.

## **Estimated Costs**

Apanaca Catacor E	ming i rogiam expenses.
\$ 5,040/\$8,640	7 month/12 month
	Est. parking revenue loss per outdoor seating parking space parklet*
\$ 4,400	Value of 4 concrete jersey barriers (\$1,100.00 each) (applicable only
	to restaurants with outdoor seating parking space parklets)
\$ 350	Installation and removal of protective concrete jersey barriers (applicable only to restaurants with outdoor seating parking space parklets)
\$ 150	DPW Permit Review, Coordination, Administration, Site visit
\$ 75	Site inspection, ADA Compliance, Safety Inspection
\$ 25	Town Administrator's Office Licensing Administrative Fee
\$10,040-\$13,640	TOTAL ESTIMATED VALUE

<sup>\*</sup>Parking revenue loss estimate assumes that meters in 3 parking spots were fully paid for eight (8) out of twelve (12) hours a day.

Source: Warrant Articles 29 & 30 May 21, 2021 Town Meeting presentation by Meredith Mooney, Economic Development Planner, Town of Brookline Planning and Community Development Department.

## We want to...

# **ENCOURAGE WINTER OUTDOOR DINING**

Extending the outdoor dining season can provide significant support for restaurants, enabling them to operate throughout the year. While snow removal on public streets is often cited as the major barrier to winter outdoor dining, there are other considerations as well. Your community should consider the following when deciding how to support winter outdoor dining:

#### Snow removal

In the case of snow, street plowing and sidewalk clearance are the major concerns in allowing businesses to operate outdoor dining in on-street parking spaces in the winter months. Sidewalk clearance is generally the responsibility of the business. In the case of street plowing and winter weather precautions, there are a few possibilities that you should consider when crafting a policy about all-season dining:

- Allow winter outdoor dining only where there are continuous strips of dining or where there is sufficient gap between dining spaces to allow for plowing.
- Allow winter outdoor dining for all outdoor dining spots and create a system of requirements depending on storm severity:
  - Advisory: light snow (under 1" or 2"), ice, or sleet restaurants may continue operations but must clear sidewalks and hydrants of all snow and ice.
  - Alert: over 2" of snow outdoor dining suspended during storm event. Municipality may require removal of overhead elements including roofs, awnings, etc.

Snow removal need not block outdoor dining options. Some municipalities, including NYC, have smaller snow removal plows and blowers that are used in denser areas that can maneuver between spaces to clear parking and pathways. If you are considering permanent changes in your zoning bylaws to allow outdoor dining, you should consider year-round options and ways your DPW purchases and equipment can accommodate the new "normal." Additional research and insight into the value of protective barriers could also affect snow removal procedures and influence all-season outdoor dining rules; if fewer or no heavy barriers are used in the future, this would make it easier to disassemble outdoor dining materials in advance of heavy snow events.

## Furniture and equipment storage

In inclement weather, some equipment and furniture may need to go into storage. For an operating restaurant, storage inside may be impractical. One consideration may be that municipalities provide common storage for restaurants (which may also be needed if no winter outdoor dining is allowed). Purchase and installation of pod-type storage containers for use by area businesses can help solve storage issues. These pods might be placed in public parking areas or other common areas with easy business access.

## **Heating and comfort**

Clarity on heating equipment and where they may or may not be used is important.

## Resources needed to "winterize" dining spaces

In addition to the costs for building outdoor dining spaces, businesses face additional expenses to winterize spaces for use all year. Those additional costs include:

- Heaters and fuel/electricity
- Storage for inclement weather

Municipalities might consider grants for businesses to help them winterize their outdoor dining spaces.



# How others are doing it...

Boston, MA

The City of Boston created a **Reopen Boston Fund** in the Fall of 2020 to provide financial assistance to restaurants to provide winter outdoor dining. Grants of up to \$3,000 helped restaurants cover the costs of equipment needed for cold weather operations. Businesses were required to provide receipts for purchases of things such as heaters, fuel, and outdoor storage, as well as any additional purchases for winter seating and tables.

Brookline, MA Falmouth, MA

For winter 2020-2021, the Towns of **Brookline** and **Falmouth** launched temporary winter outdoor dining programs that can serve as references

## We want to...

# **ENABLE OUTDOOR DINING IN PARKS**

In addition to public sidewalks and streets, outdoor dining can be located in public parks. The process will likely be similar in many ways, although parks typically fall under the jurisdiction of a different department than roadways and require a different permitting process to reserve. If a municipality anticipates a number of requests to use park space for outdoor dining from individual businesses, they may want to coordinate with the parks department to build this option into the streamlined permitting application and review process. If requests to use park space will be minimal or will be restricted to larger efforts coordinated with multiple businesses, it may be simpler to treat these requests on a case-by-case basis. Either way, there are several things that should be considered when planning outdoor dining in public parks:

What are the other uses of the park? If the park is well-used by the community for other purposes, such as by families and children, exercise, or leisure, it is important to determine how much of the park space to preserve and if it is appropriate to use any of the space for outdoor dining.

**Are there additional restrictions?** A municipality may have stricter local regulations for parks than other public spaces, including alcohol service or live music, that require supplemental policies to allow desired uses.

How should the space be laid out? Dining on the sidewalk or in parking spaces is directly adjacent to transportation facilities, and so must have specific design guidelines to make sure accessibility is not impeded. Accessibility in parks is much less defined, other than not blocking formal pedestrian pathways. Therefore, it may be most useful to use the design guidelines for a full street closure provided in Part 2 when thinking about park spaces.

Is the outdoor dining space itself accessible? Outdoor dining areas in parks must still abide by the state's outdoor dining accessibility regulations, provided at the end of this Toolkit. This includes having an accessible route and a level, flat surface. Because parks are typically grass surfaces, temporary pathways and/or platforms may need to be used to meet accessibility requirements.

Is the park under municipal or state jurisdiction? If the park is under state jurisdiction, use for outdoor dining cannot be permitted through the local permitting system and would have to be done in coordination with the Massachusetts agency responsible for oversight.



## How others are doing it...

Needham, MA

The Town of Needham, MA created several outdoor dining spaces on Town-owned property, including the Town Common, for restaurant-goers to enjoy takeout from local restaurants. Needham also adopted a temporary policy allowing to-go alcohol to be consumed in the designated public outdoor spaces.

# We want suggestions for...

# **GAINING PUBLIC AND POLITICAL SUPPORT**

Implementing outdoor dining and retail is not just about designing a robust and streamlined program; municipalities need the support of residents and local political leaders to turn proposals into actions, especially if the goal is to make these changes permanent once the State's temporary orders expire. While there will always be opponents, especially surrounding already controversial topics like the removal of parking, there a few positions advocates can focus on to help garner general support.

Outdoor dining has quickly revitalized restaurants and business districts. Outdoor dining was a major financial lifeline for restaurants during shutdowns and the peak of the COVID-19 Pandemic in Massachusetts. There is still much uncertainty surrounding the timeline of the Pandemic and emergence of variants, as well as cautioning from the scientific community about being indoors without face coverings, even for vaccinated individuals. Even when the Pandemic eventually subsides, there is uncertainty about the level of comfort much of the population will have about returning to indoor public settings. Outdoor dining and retail can continue to be a revenue boost for businesses, while removal of outdoor dining could be a large financial burden for those who are currently benefiting from it. Additionally, research has shown that investment in placemaking and public spaces, like outdoor dining or retail zones, indirectly benefits local businesses by increasing foot traffic to the surrounding area.

Outdoor dining has changed the way we think about public spaces. In addition to benefits for businesses, outdoor dining positively activated public spaces during a time when anti-urban and anti-density sentiments were spiking. Activated public spaces generate activity and opportunities for arts and culture that make commercial areas more vibrant, attractive, and economically healthy.

There are strategies for making up lost parking revenue. As discussed above, loss of metered parking revenue may be a concern for some municipalities, but there are strategies to replace much or all of the projected lost revenue. These include raising the price of other free or metered parking spaces, or charging a fee to business utilizing parking spaces, though this may be a less attractive option if the goal is to encourage outdoor dining. The Town of Brookline has also broached the idea of offsetting lost parking revenue with additional meals tax revenue.

Outdoor dining and retail is generally supported by the business community. Perhaps most importantly and influential, outdoor dining programs and process for making implementation easier have largely been supported by the business community. Local businesses play an important role in fostering the culture, activity, and sense of community in downtowns and neighborhoods, and can be influential advocates for outdoor dining and retail.



## How others are doing it...

Outdoor dining and retail zones can enhance downtown spaces to attract new visitors and economic activity. Research by the **Brookings Institution** on downtown revitalization and recovery found that investment in public spaces and placemaking supported the development and success of local small businesses. This happens both directly by providing physical spaces for businesses to operate, and indirectly, by increasing foot traffic to the surrounding areas.

# We want help...

# IDENTIFYING FUNDING FOR IMPLEMENTING A BUSINESS TOOLKIT AND FOR HELPING **BUSINESSES IN OTHER WAYS**

In addition to the funding resources provided above for parklet construction, the Massachusetts Rapid Recovery Plan (RRP) Program has compiled a crowdsourced list of funding resources, many of which are applicable to the implementation of outdoor dining and retail. These include a mix of municipal, for-profit, and non-profit funding opportunities related to the **public** realm, private realm, revenue and sales, and arts and culture, as well as grants that support administrative capacity to help municipalities and non-profits fund the creation and roll-out of their own Toolkit.

Other non-grant strategies include pursuing sponsorship from local businesses and larger companies and collaborating with local non-profits and business associations to conduct community fundraising.



## How others are doing it...

New York, NY

Assembly for Chinatown, launched by New York City non-profit Think!Chinatown and design studio A+A+A Studio, is an initiative to build outdoor dining spaces for Chinatown businesses at no cost. Buildouts are 100% funded by donations from individual contributors and organizations, and designs and materials are sourced from local vendors. Artists beautify the spaces with the help of volunteers. As of 2021, they've been able to create nine outdoor dining sites that serve 13 businesses.



Source: Assembly for Chinatown led by Think!Chinatown and A+A+A Studio. Design: A+A+A Studio, Contractor: Chaos Built, Art: Channel Miller, Photography: Trudy Giordano.

## We want...

# A TEMPLATE FOR OUR OWN COMPLETE **OUTDOOR DINING/RETAIL TOOLKIT**

In Part 2, we provide a suggested Table of Contents for your own community outdoor dining/retail Toolkit and also offer design guidelines to take the guesswork out of the design and construction of spaces and furniture quantities needed.





This Toolkit is primarily intended to be a resource for municipalities in their outdoor dining and retail decision-making and implementation. However, once your municipality designs your outdoor dining or retail program, you may want to assemble the regulations, resources, and instructions specific to your community in a guide for your businesses. This could take the form of a webpage or a community-specific business Toolkit in the form of a downloadable and paper-copy pdf. In this Part 2 of the Toolkit, we provide some resources to help structure such a resource guide for your businesses.

## 2.1 Suggested Outline for a Toolkit/Resource Guide for **Businesses**

Below is a suggested outline for your resource guide, along with some questions to help you think about how to build it out.

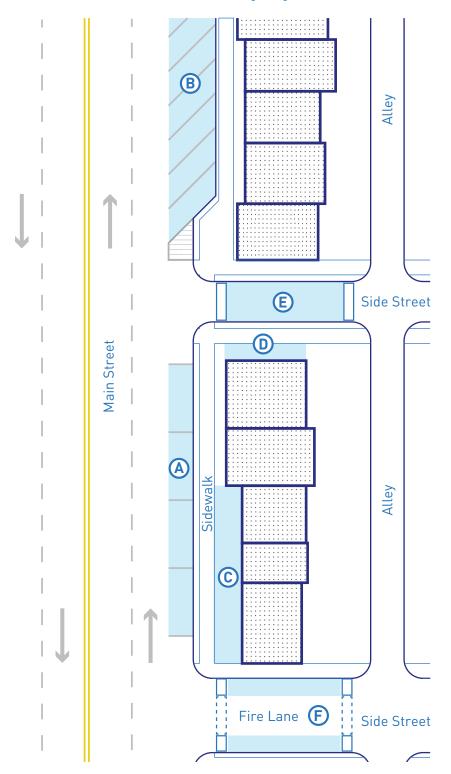
i. Introduction
a. What is the purpose of this resource guide?
b. How will the guide help businesses establish outdoor dining or retail?
ii. Eligibility
a. Who is eligible to apply? Restaurants? Retailers? Others?
iii. Types of outdoor dining or retail permitted
a. Private space?
b. Public space?
c. Curbside uses not allowed?
iv. How to apply
a. Where/how are applications submitted?
b. What steps need to be taken to complete an application?
c. What documents are necessary?
v. Key dates/timeline
a. When does the application open and close? Any intermediary deadlines?
b. When does outdoor dining/retail season begin and end? Or is it year-round?
c. Estimated time for application review and approval?
b. Public space?  c. Curbside uses not allowed?  iv. How to apply  a. Where/how are applications submitted?  b. What steps need to be taken to complete an application?  c. What documents are necessary?  v. Key dates/timeline  a. When does the application open and close? Any intermediary deadlines?  b. When does outdoor dining/retail season begin and end? Or is it year-round?

	vi. List of additional permits needed
	a. Separate permit needed for tents? Heaters? Entertainment? Others?
	vii. Materials guidance
	a. What will the municipality provide?
	b. What is the business responsible for?
	c. Are there any resources for acquiring materials including municipal bulk purchase programs?
	viii. Accessibility requirements
+	a. What are the minimum state requirements?
	b. Are there any additional accessibility requirements specific to your municipality?
	ix. Site plan/design guidelines for different types of dining/retail spaces
	a. What are sample layouts for the types of outdoor dining or retail permitted in your municipality?
	x. Alcohol guidelines
	a. What are the ABCC requirements?
	b. What does a business need to do to get an extension of premises from your Local Licensing Authority?
	xi. Contact/support available
	a. Who should a business reach out to if they have
	questions or are having difficulty with the application process?
	b. What types of issues can you help a business work through?

## 2.2 Sample Design Guidelines

The types of outdoor dining and retail offered will vary from community to community, depending on street layouts, space availability and requirements, other individual regulations. Below are a number of potential design scenarios; municipalities may take relevant scenarios to include in their resources to the businesses in their community.

## Site Selection and Set up Options



#### TRAFFIC SPEED NOTICE

It is advised that outdoor dining in parking spaces and roadways be implemented only on streets with speeds under 25-30mph.

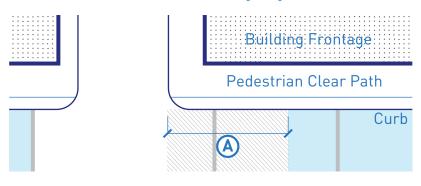
#### **PATIO EXTENT**

Proposed patio spaces should not extend beyond the host frontage / lateral property line without written permission from neighboring business except for multi-business shared parklets and street plazas.

#### **CONVERTIBLE SPACES:**

- (A) Parallel Parklet
- **Angled Parklet**
- C Large Sidewalk Patio
- Small Sidewalk Patio
- **(E)** Full Closure Street Plaza
- **Street Plaza with Fire Lane**

## Site Selection and Set up Options



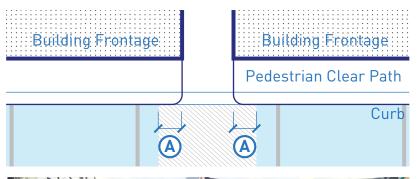


Brookline, MA

#### **CORNER**

## (A) Corner setback:

On-street dining areas should be setback from intersection corners and stop signs by 20ft or one parking spot.





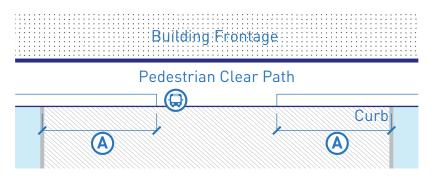
Cambridge, MA

#### **ACTIVE DRIVEWAY AND CURB CUT**

## A Driveway setback:

On-street dining areas should be setback from active driveways and curb cuts by 2ft.

## **Safety and Access Setbacks**



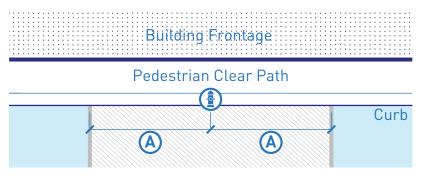


Brookline, MA

## **BUS STOP**

## (A) Bus Stop setback:

On-street dining areas should be setback from active bus stops and other similar public transportation access points by 15ft on both sides.





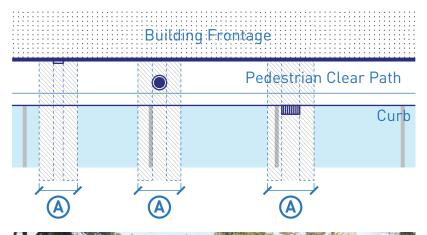
Brookline, MA

#### **FIRE HYDRANT**

## (A) Fire Hydrant setback:

On-street dining areas should be setback from fire hydrants by 5ft to 15ft depending on local fire code.

## **Safety and Access Setbacks**



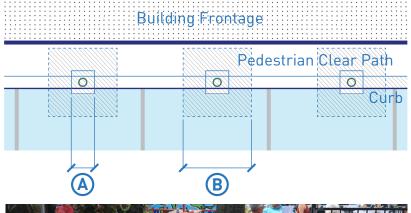


Brookline, MA

#### **UTILITIES ACCESS POINTS**

## (A) Utilities setback:

All outdoor dining areas should be setback from utility access points and connections by 2ft on both sides to allow unobstructed access from the street.





Cambridge, MA

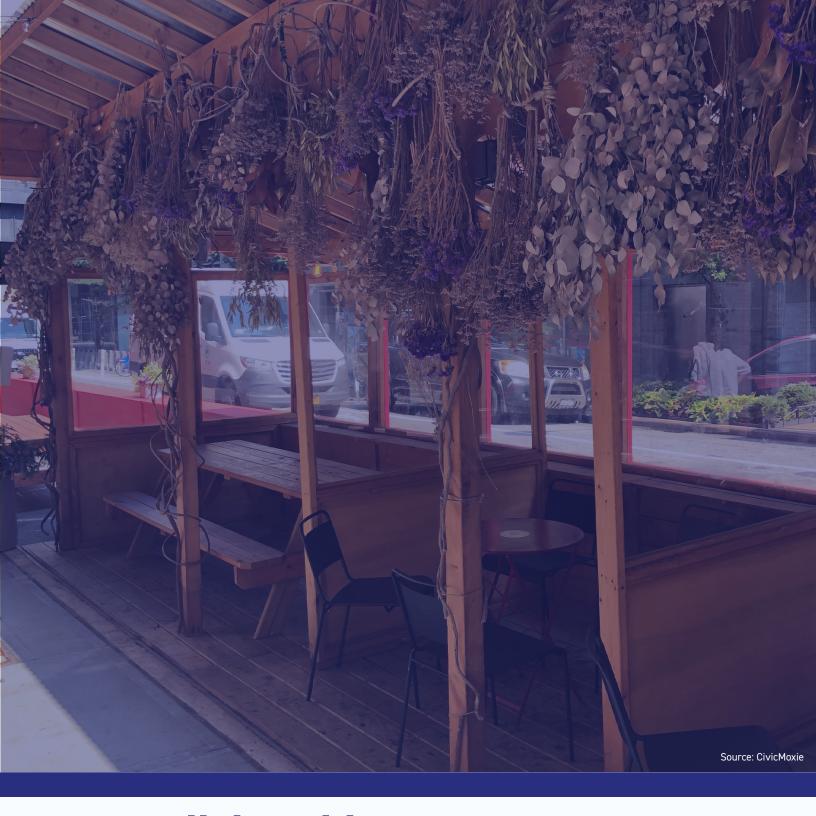
#### TREES AND STREET LIGHTING

## A Tree and Street Lighting setback:

All outdoor dining and retail areas should be setback from trees and street lighting by 1ft-2ft on all sides.

## (B) Tree buffer for heating elements:

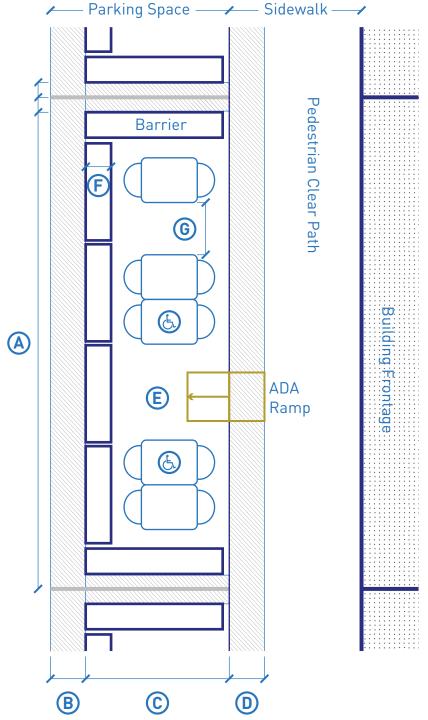
A separate 5ft buffer applies to outdoor heating elements such as heaters and open flames (such as candles), if such elements are approved.



# A. Parallel Parklet

## **Typical Parallel Parklet Layout** (Dining)

Parklets can occupy one or more parking spots. Parklet width on the sidewalk edge should not exceed the lateral property line of the host business without permission.



#### A Typical Parklet Size

A typical parallel parklet size is about 8ft x 22ft.

#### (B) Roadside Buffer

Buffer (Oft - 2ft) between outdoor dining areas and adjacent roadways and/or bicycle lanes for safety.

#### Parklet Width

Parklet width is typically 6ft - 8 ft. The parklet should not exceed the width of the parking space.

#### Pedestrian Path Buffer

Buffer (0.5ft - 4ft) between Parklet and Pedestrian Clear Path

#### (E) ADA Access

Where the parklet is not level with the sidewalk, an ADA Ramp (width 3ft - 5ft and maximum slope of 1:12) is required.

## (F) Separation Barrier

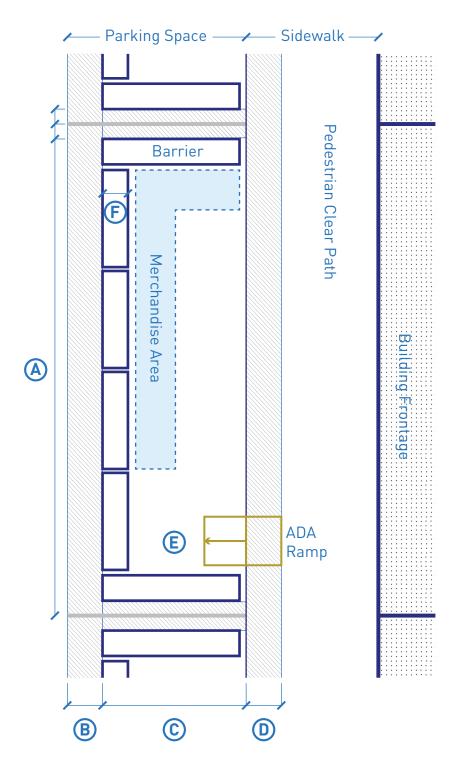
Non-protective separation barriers 12in - 18in wide.

## (G) Table Separation

Under COVID-19 guidelines, diners at different tables should be spaced at least 6ft apart. Under normal operation, provide 1.5ft - 3ft of separation or follow local guidelines.

## **Typical Parallel Parklet Layout** (Retail)

Parklets can occupy one or more parking spots. Parklet width on the sidewalk edge should not to exceed the lateral property line of the host business without permission.



#### (A) Typical Parklet Size

A typical parallel parklet size is about 8ft x 22ft.

### **B** Roadside Buffer

Buffer (Oft - 2ft) between outdoor dining areas and adjacent roadways and/or bicycle lanes for safety.

#### (c) Parklet Width

Parklet width is typically 6ft - 8 ft. The parklet should not exceed the width of the parking space.

#### Pedestrian Path Buffer

Buffer (0.5ft - 4ft) between Parklet and Pedestrian Clear Path.

#### (E) ADA Access

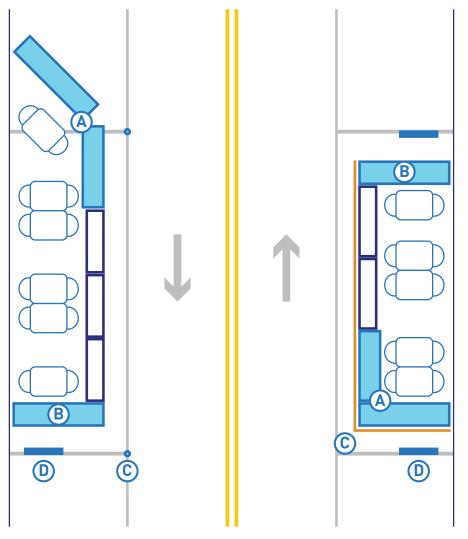
Where the parklet is not level with the sidewalk, an ADA Ramp (width 3ft - 5ft and a maximum) slope of 1:12) is required.

## (F) Separation Barrier

Non-protective separation barriers 12in - 18in wide.

## **Protective Barriers and Equipment**

Below are examples of different protective barriers equipment that can be used for parklets. Requirements for protective barriers will vary by municipality.



## (A) Front Protective Barriers

A protective barrier at the traffic facing corner if adjacent to an active parking spot.

## **B** Back Protective Barriers

A protective barrier at the end of the parklet if adjacent to an active parking spot.

### C Reflective Surface

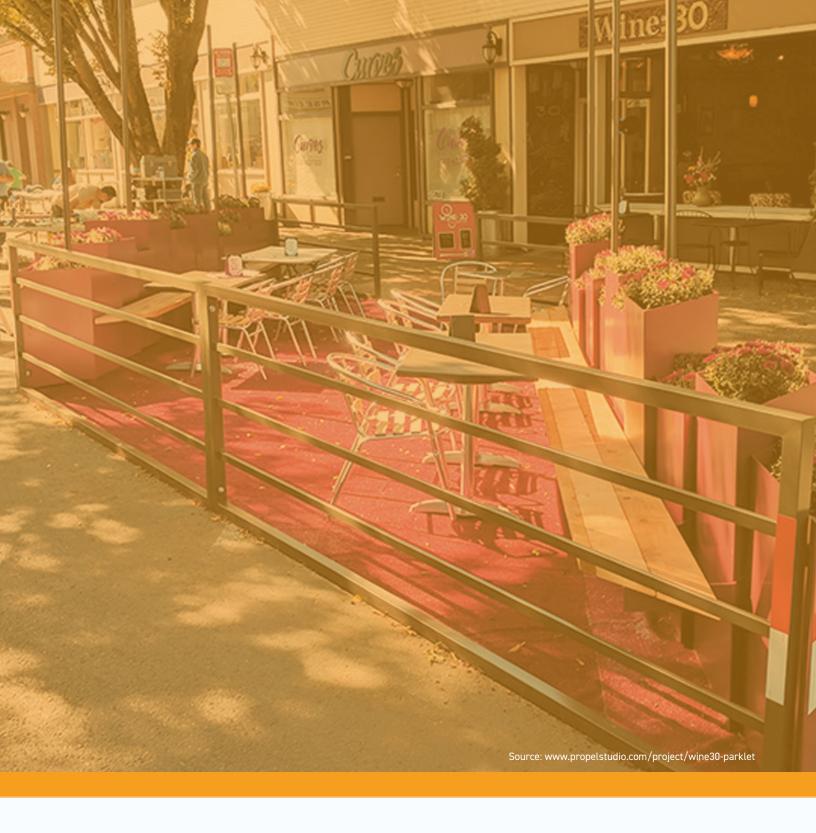
A safe-hit post at the corner or reflective tape on the barrier on traffic facing edge.

## Wheel Stop

Wheel stops if adjacent to an active parking spot.



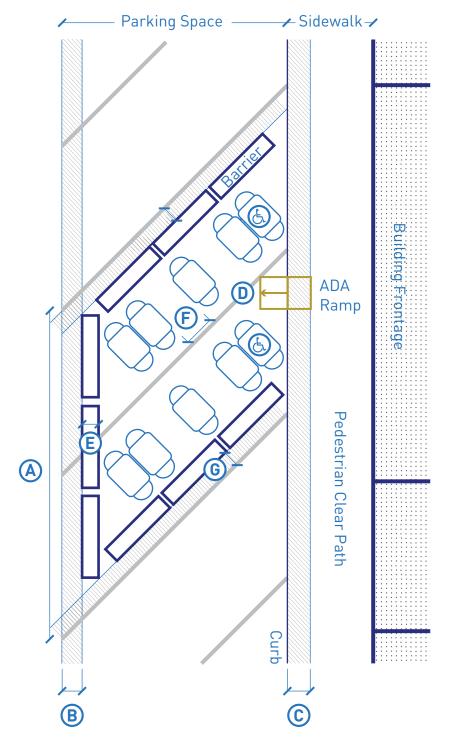
Brookline, MA



# B. Angled Parklet

## **Typical Angled Parklet Layout** (Dining)

Angled parklets typically occupy two or more parking spots. Parklet width on the sidewalk edge should not exceed the lateral property line of the host business without permission.



## (A) Typical Angled Parklet Size

A typical angled parklet size varies depending on angle and depth. However, using two or more spots is recommended for material efficiency.

#### (B) Roadside Buffer

Buffer (Oft - 2ft) between outdoor dining areas and adjacent roadways and/or bicycle lanes for safety.

#### (C) Pedestrian Path Buffer

Buffer (0.5ft - 4ft) between Parklet and Pedestrian Clear Path.

#### (D) ADA Access

Where the parklet is not level with the sidewalk, an ADA Ramp (width 3ft - 5ft and maximum slope of 1:12) is required.

#### **(E)** Separation Barrier

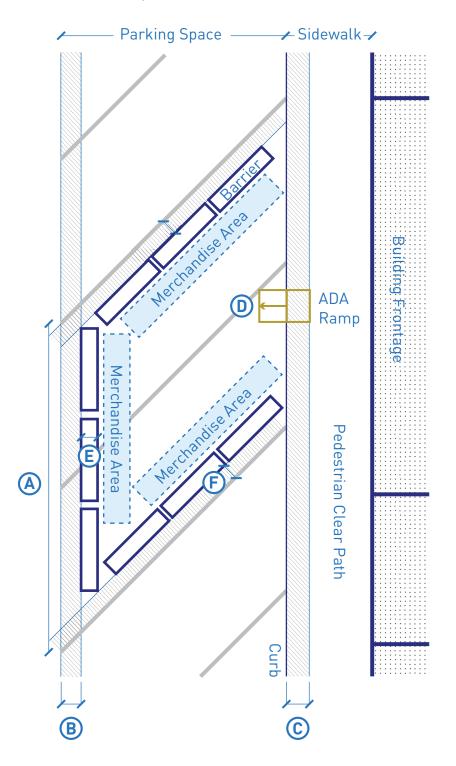
Non-protective separation barriers 12in - 18in wide.

## (F) Table Separation

Under COVID-19 guidelines, diners at different tables should be spaced at least 6ft apart. Under normal operation, provide 1.5ft -3ft of separation or follow local guidelines.

## **Typical Angled Parklet Layout** (Retail)

Parklets can occupy two or more parking spots. Parklet width on the sidewalk edge should not exceed the lateral property line of the host business without permission.



#### **Typical Angled Parklet Size**

A typical angled parklet size varies depending on angle and depth. However, using two or more spots is recommended for material efficiency.

#### B Roadside Buffer

Buffer (Oft - 2ft) between outdoor dining areas and adjacent roadways and/or bicycle lanes for safety.

## © Pedestrian Path Buffer

Buffer (0.5ft - 4ft) between Parklet and Pedestrian Clear Path.

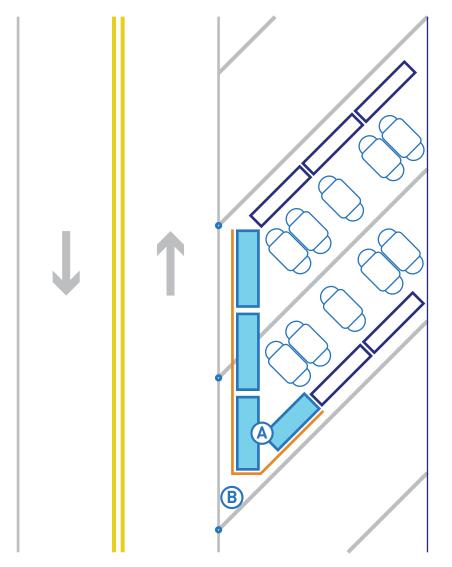
## (D) ADA Access

Where the parklet is not level with the sidewalk, an ADA Ramp (width 3ft - 5ft and maximum slope of 1:12) is required.

## (E) Separation Barrier

Non-protective separation barriers 12in - 18in wide.

## **Typical Angled Parklet Barrier and Safety**.



## (A) Front Protective Barriers

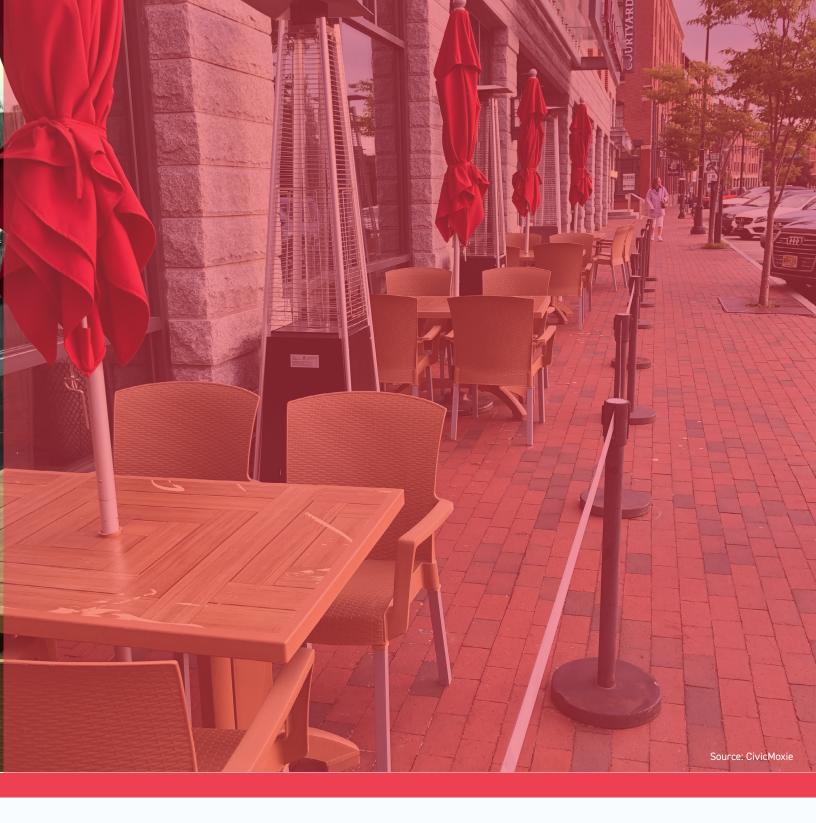
A protective barrier at the traffic facing corner if adjacent to an active parking spot.

## **B** Reflective Surface

A safe-hit post at the corner or reflective tape on the barrier on traffic facing edge.



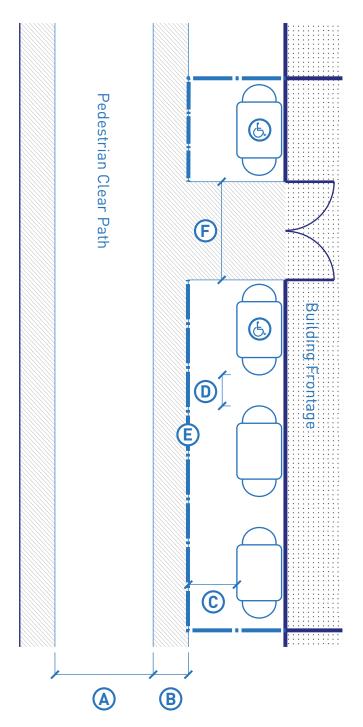
Walla Walla, WA



# C. Large Sidewalk Patio

## **Typical Large Sidewalk Patio Layout** (Contiguous)

Large sidewalk patio width should not exceed the lateral property line of the host business without permission.



## (A) Pedestrian Clear Path

Sidewalk patio feasibility is contingent on the preservation of a Pedestrian Clear Path of 5ft - 10ft depending on districts and visitor volume.

## (B) Pedestrian Path Buffer

Buffer (2ft) between Patio and Pedestrian Clear Path.

#### C Service and Access

Provide a clear path 2ft - 3ft depending on accessibility requirements for service and access. If sufficient dedicated accessible tables are available near entrance. path need not be accessible.

#### (D) Table Separation

Under COVID-19 guidelines, diners at different tables should be spaced at least 6ft apart. Under normal operation, provide 1.5ft - 3ft of separation or follow local guidelines.

## (E) Verticle Separation and Boundary

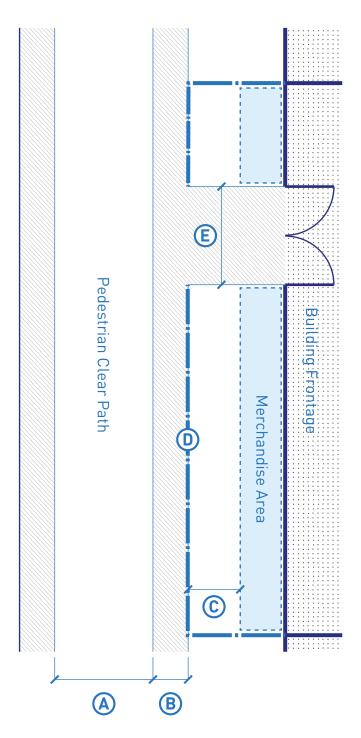
A clearly indicated enclosure in the form of a fence, or cordoned area allows for the service of alcohol.

## (F) Entrance Clear Path

Entrance to the premises must not be obstructed by enclosures, tables, seating, or patrons.

# **Typical Large Sidewalk Patio Layout** (Retail)

Large sidewalk patio width should not to exceed the lateral property line of the host business without permission.



## **Pedestrian Clear Path**

Sidewalk patio feasibility is contingent on the preservation of a Pedestrian Clear Path of 5ft - 10ft depending on districts and visitor volume.

## (B) Pedestrian Path Buffer

Buffer (2ft) between Patio and Pedestrian Clear Path.

#### **Service and Access**

Provide a clear path 2ft - 3ft © depending on accessibility requirements for service and access.

### **Verticle Separation and Boundary**

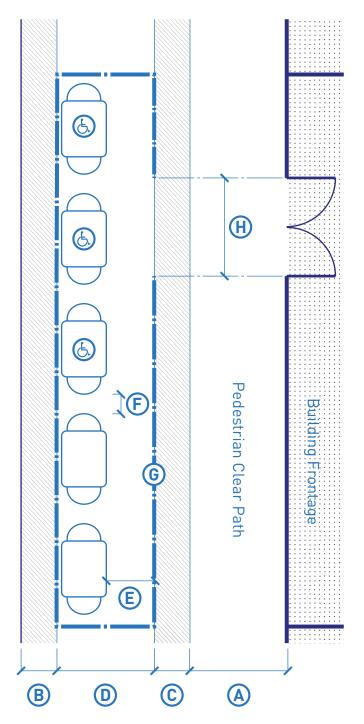
A clearly indicated enclosure in the form of a fence, or cordoned area.

#### **Entrance Clear Path**

Entrance to the premises must **(E)** not be obstructed by enclosures, merchandise, or patrons.

# **Typical Large Sidewalk Patio Layout** (Non-Contiguous)

Large sidewalk patio width should not exceed the lateral property line of the host business without permission.



## A Pedestrian Clear Path

Sidewalk patio feasibility is contingent on the preservation of a Pedestrian Clear Path of 5ft - 10ft depending on districts and visitor volume.

## (B) Roadside Buffer

Provide an 18in buffer between curb and sidewalk dining area.

## Pedestrian Path Buffer

Buffer (2ft) between Patio and Pedestrian Clear Path

#### Width

D Non-contiguous large sidewalk patio width contingent on providing a service and access path per E. Service and Access.

#### Service and Access

E Provide a clear path 2ft - 3ft depending on accessibility requirements for service and access. If sufficient dedicated accessible tables are available near entrance, path need not be accessible.

### **Table Separation**

(F) Under COVID-19 guidelines, diners at different tables should be spaced at least 6ft apart. Under normal operation, provide1.5ft - 3ft of separation or follow local guidelines.

#### **Verticle Separation and Boundary**

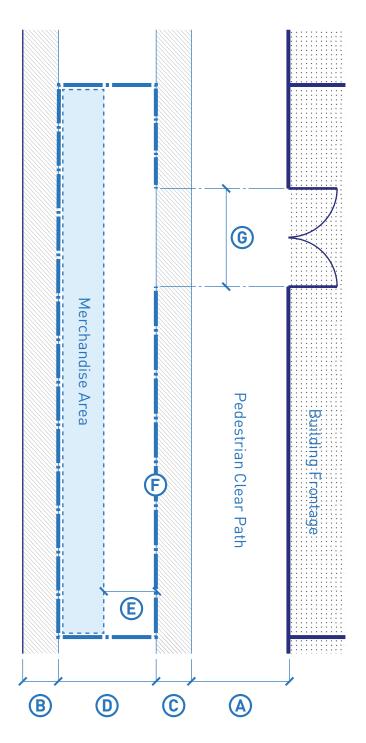
A clearly indicated enclosure in the form of a fence, or cordoned area, allows for the service of alcohol.

#### **Entrance Clear Path**

Entrance to the premises must not be obstructed by enclosures, tables, seating, or patrons.

# **Typical Large Sidewalk Patio Layout** (Retail)

Large sidewalk patio width should not exceed the lateral property line of the host business without permission.



## (A) Pedestrian Clear Path

Sidewalk patio feasibility is contingent on the preservation of a Pedestrian Clear Path of 5ft - 10ft depending on districts and visitor volume.

## (B) Roadside Buffer

Provide an 18in buffer between curb and sidewalk dining area.

## © Pedestrian Path Buffer

Buffer (2ft) between Patio and Pedestrian Clear Path.

#### Width

Non-contiguous large sidewalk patio width contingent on providing a service and access path per E. Service and Access.

#### **Service and Access**

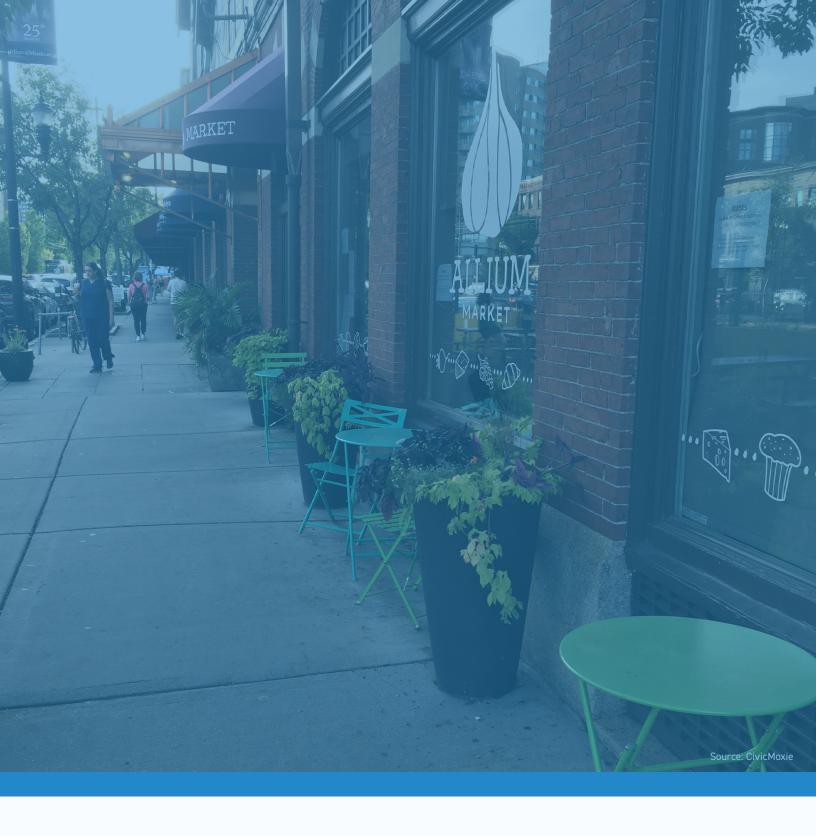
Provide a clear path 2ft - 3ft (E) depending on accessibility requirements for service and access.

## **Verticle Separation and Boundary**

A clearly indicated enclosure in the form of a fence, or cordoned area.

#### **Entrance Clear Path**

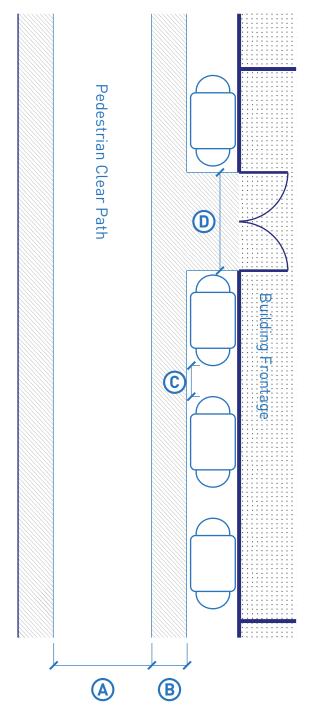
Entrance to the premises must not be obstructed by enclosures, tables, seating, or patrons.



# D. Small Sidewalk Patio

# Typical Small Sidewalk Patio Layout

Small sidewalk patio width should not exceed the lateral property line of the host business without permission.



## (A) Pedestrian Clear Path

Sidewalk patio feasibility is contingent on the preservation of a Pedestrian Clear Path of 5ft - 10ft depending on districts and visitor volume.

## (B) Pedestrian Path Buffer

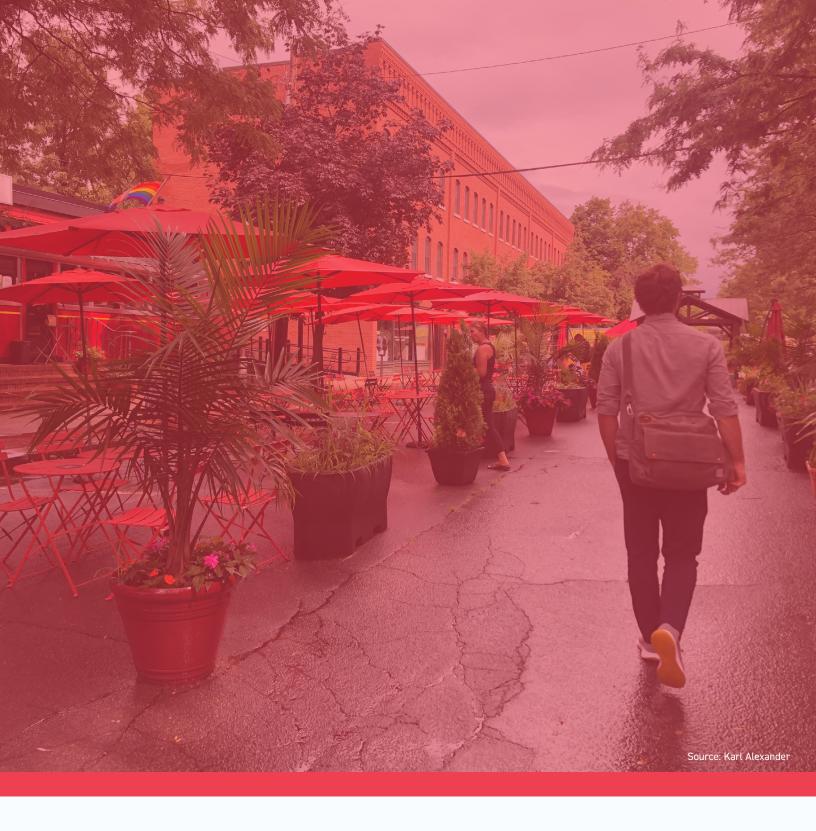
Buffer (2ft) between Patio and Pedestrian Clear Path to accommodate moving patrons, chairs, and services.

## (C) Table Separation

Under COVID-19 guidelines, diners at different tables should be spaced at least 6ft apart. Under normal operation, provide 1.5ft -3ft of separation or follow local quidelines.

#### **Entrance Clear Path**

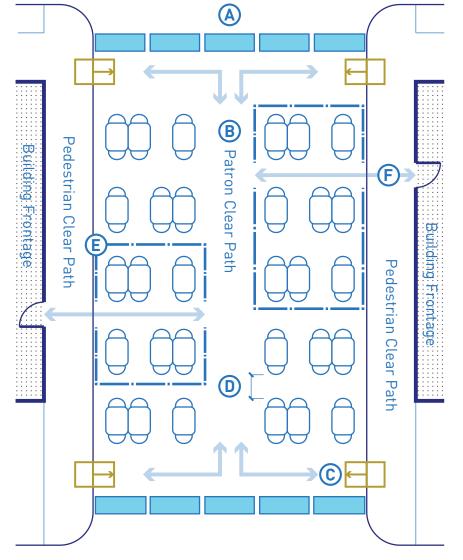
D Entrance to the premises must not be obstructed by enclosures, tables, seating, or patrons.



# E. Full Closure Street Plaza

## **Typical Full Closure Street Plaza**

Street Plaza outdoor seating may be hosted by individual businesses or shared amongst multiple participating businesses.



## A Barriers

Protective barriers (filled with sand or water, or as directed by local quidelines) should be placed in front of the outdoor dining plaza on both ends. Suggested barrier width: 12in - 18in

#### (B) **Pedestrian Clear Path**

Provide a Pedestrian Clear Path of 5ft - 10ft depending on visitor volume.

### (C)**ADA Access**

Provide an ADA Ramp (width 3ft - 5ft) on both sides of the plaza unless existing curb cuts into designated dining area are available.

## **Table Separation**

Under COVID-19 guidelines, diners at different tables should be spaced at least 6ft apart. Under normal operation, provide 1.5ft -3ft of separation or follow local guidelines.

#### **(E) Hosted Outdoor Dining Area**

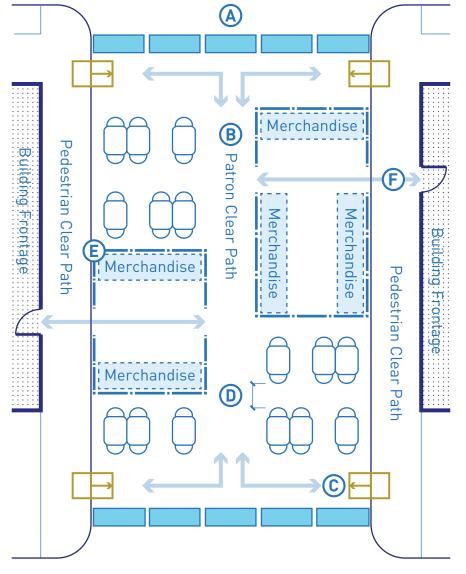
Certain areas may be privately hosted by adjacent businesses and reserved for their patrons. These areas must be clearly indicated and separated with verticle separators such as fences and cordons.

#### **(F) Service and Access**

A direct, straight service path should be provided between the host business and outdoor dining area. An additional access should be provided at road level for patrons requiring wheel chair access.

# **Typical Full Closure Street Plaza**

Street Plaza outdoor seating may be hosted by individual businesses or shared amongst multiple participating businesses.



## (A) Barriers

Protective barriers (filled with sand or water, or as directed by local guidelines) should be placed in front of outdoor retail plaza on both ends.

Suggested barrier width: 12in -18in

## (B) Pedestrian Clear Path

Provide a Pedestrian Clear Path of 5ft - 10ft depending on visitor volume.

## (C) ADA Access

Provide an ADA Ramp (width 3ft - 5ft) on both sides of the plaza unless existing curb cuts into designated retail area are available.

# **Table Separation**

Under COVID-19 guidelines, diners at different tables should be spaced at least 6ft apart. Under normal operation, provide 1.5ft -3ft of separation or follow local guidelines.

## (E) Hosted Outdoor Retail Area

Certain areas may be privately hosted by adjacent businesses and reserved for their patrons. These areas must be clearly indicated and separated with verticle separators such as fences and cordons.

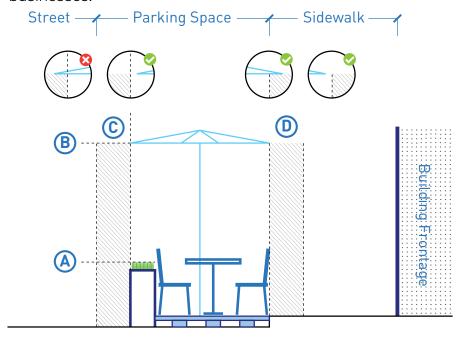
## (F) Service and Access

A direct, straight service path be provided between the host business and outdoor retail area.

An additional access should be provided at road level for patrons requiring wheel chair access.

# **Typical Full Closure Street Plaza**

Street Plaza outdoor seating may be hosted by individual businesses or shared amongst multiple participating businesses.



## (A) Barriers

Barriers and vegetation should be limited to a total height of 36".

## **B** Overhead Clearance

Provide a min. 7ft - 8ft clearance of overhead coverings, including umbrellas, trellises etc.

## © Roadside Clearance

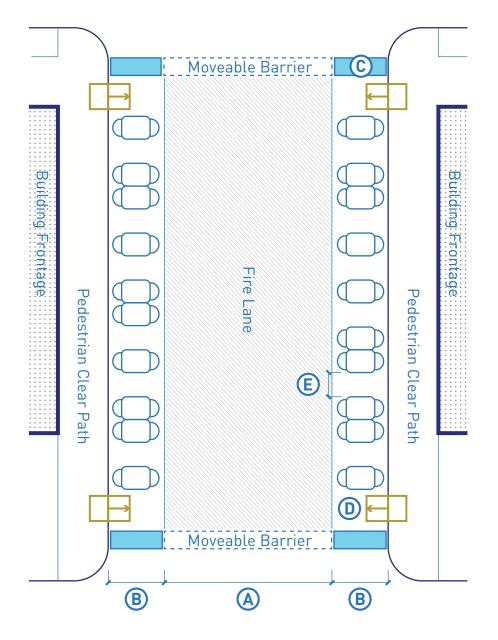
Overhead coverings may not extend beyond the barriers into the road.

## Sidewalk Clearance

Overhead coverings may extend beyond the barriers into the sidewalk, providing the overhead clearance of 7ft - 8ft is maintained.

# **Typical Partial Closure Street Plaza with Fire Lane**

Street Plaza outdoor seating may be hosted by individual businesses or shared amongst multiple participating businesses.



## (A) Fire Lane

Partial closure plazas must maintain a 20ft clear emergency fire lane.

## (B) Outdoor Dining Area Width

Remaining area (approx. 3ft - 5ft on both sides on a twolane road) may host outdoor dining set ups that may not enter into the fire lane. Set up may spill over onto sidewalk given that a Pedestrian Clear Path of 5ft - 10ft be maintained.

## (C) Barriers

Protective barriers (filled with sand or water, or as directed by local guidelines) should be placed in front of the outdoor dining strip on both ends.

Moveable barriers to block off Fire Lane, to be removed as necessary.

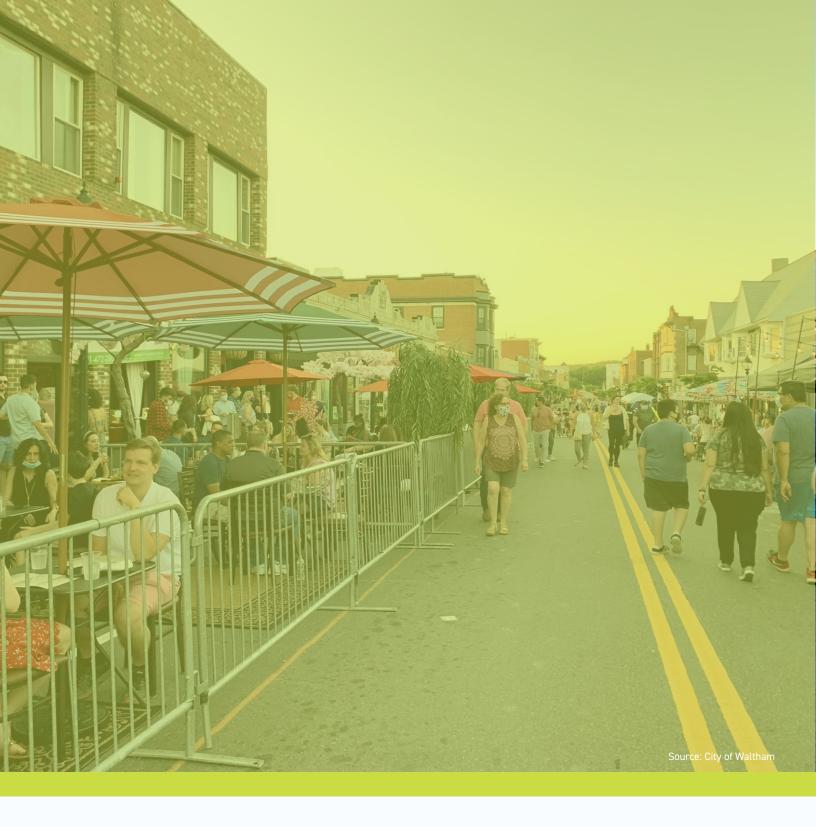
Suggested barrier width: 12in - 18in

## (D) ADA Access

Provide an ADA Ramp (width 3ft - 5ft) on both sides of the plaza unless existing curb cuts into designated dining area are available.

## (E) Table Separation

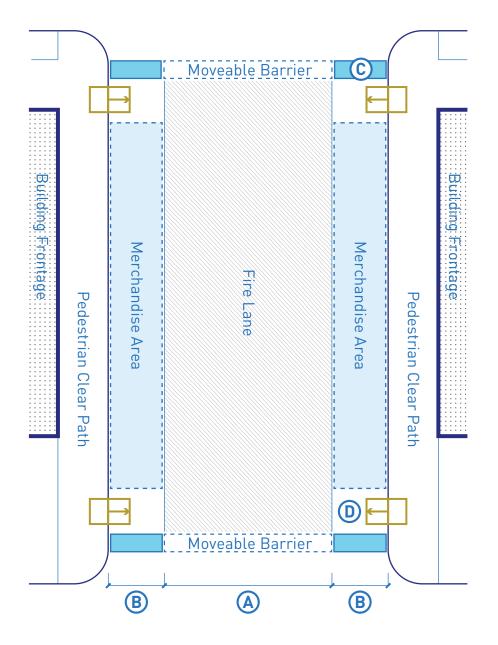
Under COVID-19 guidelines, diners at different tables should be spaced at least 6ft apart. Under normal operation, provide 1.5ft - 3ft of separation or follow local quidelines.



# F. Street Plaza with a Fire Lane

# **Typical Partial Closure Street Plaza with Fire Lane**

Street Plaza outdoor seating may be hosted by individual businesses or shared amongst multiple participating businesses.



## (A) Fire Lane

Partial closure plazas must maintain a 20ft clear emergency fire lane.

## **Outdoor Merchandise Area** Width

Remaining area (approx. 3ft - 5ft on both sides on a two-lane road) may host outdoor retail set ups that may not enter into the fire lane. Set up may spill over onto sidewalk given that a Pedestrian Clear Path of 5ft - 10ft be maintained.

## (C) Barriers

Protective barriers (filled with sand or water, or as directed by local quidelines) should be placed in front of outdoor retail strip on both ends.

Moveable barriers to block off Fire Lane, to be removed as necessary.

Suggested barrier width: 12in - 18in

## (D) ADA Access

Provide an ADA Ramp (width 3ft - 5ft) on both sides of the plaza unless existing curb cuts into designated retail area are available.

# 2.3 State Outdoor Dining/Seating Fact Sheet for **Accessibility Requirements**

On the following pages are the minimum accessibility requirements for outdoor dining as designated by the Commonwealth of Massachusetts. They can also serve as guidance for minimum space requirements for outdoor retail. This document can be shared with businesses or used as a resource for designing accessibility documentation for your municipality. While these are the minimum requirements, some municipalities may have additional local accessibility requirements, which should also be made explicit in your materials to businesses.



# **OUTDOOR DINING/SEATING**

#### FACT SHEET FOR ACCESSIBILITY CONSIDERATIONS (COVID-19 EDITION)

The primary focus of this guidance is to provide eating establishments with an understanding of the requirements of the rules and regulations of the Massachusetts Architectural Access Board (MAAB), Massachusetts' state building code 521 CMR, that addresses architectural accessibility in the built environment. It will also reference anti-discrimination obligations under the Americans with Disabilities Act (ADA) and its associated Architectural Design Standards (ADADS).

As Massachusetts begins to re-open and restaurants and cafes are establishing outdoor seating areas for customers, entities must consider accessibility obligations that ensure a safe, equitable, and accessible experience for all visitors.

#### **Accessible Route**

An accessible route must be provided on site that coincides with the route the general public uses from arrival destination points to the receiving area such as the host station. An accessible route must also connect to accessible seating, restrooms/portable toilets, and to other unique amenities such as a bar, firepit, fans, or heat lamps. The additional listed amenities may also have their own obligations.

#### Components of an Accessible Route

#### Width of the Accessible Route:

The minimum width of an accessible route is 36 inches (MAAB 20.4). The use of separation devices such as, bollards, cones, planters, chairs, or chains attached to stands intended to delineate the dining area must not be placed in a way that reduces the width of the accessible route.

#### Surface:

The surface of the accessible route must provide a running slope measuring between 0%-5% to remain a walkway. If the slope reaches 5.1% the route will be classified as a ramp and be required to stay under 8.33% (MAAB 20.9). The surface must also be stable, firm, slip resistant (MAAB 20.9), free from changes in level exceeding ½ inch and unbeveled (MAAB 29.2), and free from protruding objects that extend into the accessible route (MAAB 20.6).

#### **Please Note**

If you would like to increase the level of accessibility being provided along an accessible route, we suggest increasing the width to 48 inches, allowing for additional maneuvering space.

Additionally, although landscaping is commonly used to be aesthetically pleasing, grass is not considered an accessible route under the regulations. Surfaces such as rocks, sand, and loose gravel are similarly not considered accessible. Businesses are welcome to include these surfaces on their property; however, these must not be used on the accessible route.



#### **Accessible Tables and Seating**

As restaurant seating is added or created compliance with MAAB Section 17.0 is required. Routes to all dining areas must be accessible, including outdoor seating areas (MAAB 17.5). A specific number of accessible seating must be provided on an accessible route, must be distributed based on size and location, and must follow detailed dimensions regarding clear floor space and table and counter heights.

#### **Components of Accessible Tables and Seating**

#### Seating:

At least 5%, but not less than one of the tables provided shall be accessible and be on an accessible route (MAAB Section 17.2). Seating at the accessible tables must be movable and not be fixed to the table like a picnic bench or school cafeteria table (MAAB Section 35.1).

#### Example:

A restaurant provides 45 tables outside in a park and are all similar in their location and seating capacity. Two tables, out of the 45 would need to be accessible and located along an accessible route.

#### Distribution:

Accessible tables must be distributed by the size and locations of the space being offered. Tables that are provided for large or small groups, in different locations, or for different services would all be required to meet the 5% obligation (MAAB Section 17.2).

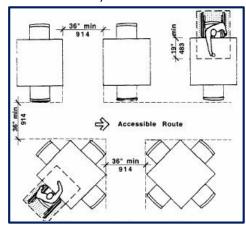
#### **Example:**

A restaurant has 62 tables. 10 of the tables offer light dining on the sidewalk while the remaining 52 tables are reserved for fine dining and are located on a closed street. In this scenario, 3 accessible tables would need to be provided. One accessible table would be in the light dining area and one accessible table would need to be provided in the fine dining area. The third accessible table could be provided in either area.

Remember, in this scenario someone may need to transition from the sidewalk to the street, so ensuring the accessible route is critical.

#### Accessible Aisle Between Accessible Tables:

A 36-inch clearance (access aisle) is required between accessible tables. No seating or any other obstruction shall overlap the access aisle. (MAAB Section 17.2.2).



#### **Clear Floor Space at Accessible Tables:**

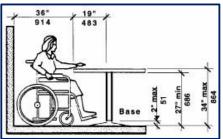
At each accessible table, a clear floor space measuring 36-inches by 48-inches should be provided to allow for an individual to easily set themselves at the table. This space should not overlap with the knee space depth under the table by more than 19-inches (MAAB Section 17.2.3). See graphic below.

#### **Knee Clearances at Accessible Tables:**

Knee space of at least 27-inches high, 30-inches wide, and 19-inches deep must be provided to allow for an individual using a mobility device to maneuver and use the table (MAAB Section 17.2.4).

#### **Height of Tables and Counters:**

The tops of the accessible tables shall be from 28-inches to 34-inches above the floor or ground (MAAB Section 17.2.5).



#### Note on Accessible Routes and Utilizing Parklets or On-Street Parking for Dining:

If a restaurant decides to offer outdoor dining using a parklet or on-street parking space, it is important to note that all of the aforementioned laws and regulations continue to apply even though technically the parklet may be in the vehicular lane. Parklets tend to be the size of an on-street parking space and often do not provide sufficient clear width between seating areas and the barrier that protects customers from vehicles. Since these types of areas are typically located on the street, consider how a customer with a disability can access the street from the curb. If no curb cut is provided, it could be extremely difficult for one to get to that location without a mechanism to either reduce or eliminate the change in level. Often businesses will use a temporary or portable ramp; however, in order to use such device, the building owner must apply for and be granted a variance from the MAAB. One cannot install a portable and/or temporary ramp without seeking permission from the MAAB. Since these types of spaces can quickly become a complicated subject, we strongly suggest reaching out to our office directly if you have additional questions or concerns regarding the use of parklets or on-street parking spaces.

#### **Other Access Considerations**

There are additional "dining" requirements under the MAAB that involve dining counters without service, counters and bars with service, and food service lines. These additional requirements can be found under MAAB Section 17 -Restaurants.

- If outdoor dining is occurring on a sidewalk, a 36-inch path of travel is required to allow for pedestrians to pass by or access an entrance.
- If portable toilets are provided in multiple locations on the same site, an accessible portable toilet (5%, but not less than 1) should be provided in each location. If portable toilets are all provided in one single location, the 5%, but not less than 1 must be provided (MAAB 30.1.2).
- If parking is affected by the provision of outdoor dining, it is important to remember that accessible parking is based on the number of parking spaces within a particular parking lot. If all parking is removed entirely then there would be no requirement to provide accessible parking. If parking is reduced, modified, or re-located there would be an obligation to provide the appropriate number of accessible parking spaces as required (ADADS 208.2 and/or MAAB 23.2.1).
- Ensure the accessible route is free from Protruding Objects, such as lights, umbrellas, signs, or other fixtures provided (MAAB 20.6)

If any of the above requirements cannot be met as prescribed by the MAAB rules and regulations, a variance would be required from the MAAB. Further information related to that process can be found on the Massachusetts Architectural Access Board's website<sup>1</sup>.

<sup>&</sup>lt;sup>1</sup> https://www.mass.gov/orgs/architectural-access-board

#### **Effective Communication**

The Americans with Disabilities Act requires businesses that are open to the public, such as eating establishments, to communicate effectively with people who have vision, hearing, or speech disabilities to ensure that they can communicate with, receive information from, and convey information to the business.

A business is obligated to provide auxiliary aids and services when necessary to communicate with a person with a disability unless doing so would create an undue burden, which is defined as significant difficulty or expense.

**Examples of Auxiliary Aids and Services at a Restaurant:** 

- Providing a menu in Braille or large print
- Reading menu items to a customer
- Communicating with pen and paper
  - Speaking slowly and clearly

We hope you find this fact sheet a useful tool as dining re-opens in Massachusetts. If there are any questions related to this fact sheet, please contact MOD by reaching out to MOD's Community Services Unit by email at either Jeff.Dougan@mass.gov or Jakira.Rogers@mass.gov, or by phone at 617-979-7316.



**Massachusetts Office on Disability** One Ashburton Place, Room 1305 **Boston, MA 02108** 

**Contact MOD** 

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Toll Free: 800-322-2020

Fax: 617-727-0965

Send MOD a Question Online<sup>2</sup>

Visit MOD on the Web3

Twitter: @MassDisability4

Blog: blog.mass.gov/mod<sup>5</sup>

YouTube<sup>6</sup>

<sup>&</sup>lt;sup>2</sup> https://www.mass.gov/forms/contact-the-massachusetts-office-on-disability

<sup>3</sup> http://www.mass.gov/mod

<sup>4</sup> https://twitter.com/massdisability

<sup>&</sup>lt;sup>5</sup> https://blog.mass.gov/mod

<sup>&</sup>lt;sup>6</sup> https://www.youtube.com/channel/UCoS5kUnBGto7NW-pK24MrDg/