

## OUTDOOR DINING GUIDELINES (2023)

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### Locations & Dates

Licensed restaurants in Newton may obtain annual permits through the City's Licensing Commission to provide food and alcohol service to outdoor dining:

- on private property all year, weather permitting;
- on city sidewalks all year, weather permitting;
- in protected, on-street parking spaces from April 1 to January 2, and
- in a combination of areas listed above.

In case of an emergency or heavy snowfall, Public Works may require early removal of outdoor dining areas from public ways.

### Application Process

The licensing process differs depending on (1) the location of an outdoor dining area, and (2) whether alcohol is served.

 [Download the Outdoor Seating Guide](#)

More details are available on the Licensing Commission webpage, <https://www.newtonma.gov/licensing>

Access permit applications on NewGov or create a user account: <https://newtonma.viewpointcloud.com/>

Please email general questions to: [licensing@newtonma.gov](mailto:licensing@newtonma.gov)

### Accessibility

*All outdoor dining areas must be accessible.*

We strongly recommend you review the [Outdoor Dining Fact Sheet](#) created by Massachusetts Office on Disability, especially the Accessible Routes and Accessible Tables and Seating sections.

All dining areas must comply with the following regulations:

1. Massachusetts Architectural Access Board, (See: [521 CMR 17.00](#));
2. Anti-discrimination obligations under the Americans with Disabilities Act, (See: [A Primer for Small Business](#)); and
3. 2010 Architectural Design Standards, (See: [Standards for Accessible Design](#)).

Restaurants should also advertise accessible outdoor dining on premises and online.

City staff will inspect dining areas to ensure public safety and accessibility. Questions? Please contact ADA Coordinator Jini Fairley, (617) 796-1253, [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov)

### Seating Capacity

In Massachusetts, the Uniform Plumbing Code limits the number of seats in a restaurant based on the number of plumbing fixtures available to patrons.

In addition, the Architectural Access Board requires a ratio of the available plumbing fixtures to be accessible.

For questions about seating capacity, please contact Inspectional Services, (617) 796-1060, [isd@newtonma.gov](mailto:isd@newtonma.gov).

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### CONTACTS

Outdoor dining requires the coordination of staff from multiple City departments. Please consult the list below for assistance:

#### **Accessibility**

ADA Coordinator Jini Fairley, (617) 796-1253, [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov)

#### **Alcohol service** (Health & Human Services)

Administrative Clerk Manuela Familia (617) 796-1420, [mfamilia@newtonma.gov](mailto:mfamilia@newtonma.gov)

#### **Barriers** (Public Works)

Transportation Engineer Isaac Prizant, (617) 796-1483, [iprizant@newtonma.gov](mailto:iprizant@newtonma.gov)

#### **Food service** (Health & Human Services)

Administrative Clerk Shemeka Hill (617) 796-1420, [shill@newtonma.gov](mailto:shill@newtonma.gov)

#### **General inquiries** (Planning & Development)

Economic Development Director John Sisson, (617) 796-1122, [jsisson@newtonma.gov](mailto:jsisson@newtonma.gov)

#### **Parking spaces** (Public Works)

Transportation Engineer Isaac Prizant, (617) 796-1483, [iprizant@newtonma.gov](mailto:iprizant@newtonma.gov)

#### **Propane heaters** (Fire Prevention)

Propane (or other fuel) heaters require a fire permit. Please see the [online application](#). Contact Fire Prevention Captain Markoski, (617) 796-2231, [cmarkoski@newtonma.gov](mailto:cmarkoski@newtonma.gov)

#### **Planters** (Parks & Recreation)

The City may have a limited number of planters available. Restaurants are responsible for dirt, plantings, watering, and maintenance. For more information, contact Assistant Superintendent Phil Arpino, (617) 796-1485, [parpino@newtonma.gov](mailto:parpino@newtonma.gov)

#### **Sidewalk seating** (Health & Human Services)

Administrative Clerk Manuela Familia (617) 796-1420, [mfamilia@newtonma.gov](mailto:mfamilia@newtonma.gov)

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### DINING AREAS ON PRIVATE PROPERTY

- **Accessibility** - All accessible parking spaces must be maintained but can be moved within the parking lot to accommodate seating.
- **Alcohol Service** - For outdoor service of alcohol, the dining area must be enclosed per State law.
- **Emergency Access** – The seating arrangement must not obstruct the Fire Department access lane, egress from the restaurant or from adjacent buildings, fire hydrants, etc.
- **Parking Space Requirements** - Removal of parking for outdoor dining cannot reduce parking below minimum requirements as per zoning, special permits, and/or accessibility laws.
- **Seating Capacity** - Outdoor seating in private areas counts towards all ABCC and plumbing seating capacity limits and occupancy loads.

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### DINING AREAS ON SIDEWALKS

- **Notification** - All sidewalk applicants must:
  1. Notify abutters within 300 feet of the proposed premises by first class mail or email. [Request an abutters list](#). The City requires a copy of the notice that is sent to abutters.
  2. Notify the three [City Councilors](#) of the Ward where the restaurant is located.
  3. Health and Human Services will provide each applicant a window placard stating that a sidewalk seating application has been submitted and is under review.
- **Alcohol Service** - For outdoor service of alcohol, the dining area must be enclosed per State law.
- **Clear Zone** - A minimum 48-inch-width “clear zone” (unobstructed pedestrian path) must be maintained on the sidewalk at all times. Tables and chairs cannot block access to any fixed objects (hydrants, parking meters, benches, bus stops, entrances to buildings, etc.). Sidewalk dining cannot block access to parked vehicles from the public sidewalk.
- **Seating Capacity** - Seats in the public way do not count towards a restaurant’s City-approved seating capacity relative to parking requirements. However, seating may be constrained by:
  - Emergency access requirements.
  - The building's frontage and obstacles in the public way (such as hydrants), and
  - The Uniform Plumbing Code, which limits the number of seats relative to the number of plumbing fixtures available to patrons. In addition, the Architectural Access Board requires a ratio of the plumbing fixtures to be accessible.

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### DINING AREAS IN PUBLIC PARKING SPACES

#### Approved Locations

- The Department of Public Works (DPW) will review and approve or reject all requests. Staff will consider public safety, parking demand, and other factors when reviewing requests for one or more spaces.
- Spaces will not be approved within bus stops, crosswalks, accessible parking spaces, or adjacent to fire hydrants. Legal spaces within 20’ of an intersection may be approved after careful review.

#### Design considerations

- **Accessibility** - On-street dining must be accessible from adjacent sidewalk. Raised platforms are the most efficient way to ensure on-street dining area is accessible to the sidewalk. Movable temporary ramps will not be allowed to provide access to on-street dining. If raised platforms will not be used to provide an accessible route to on-street dining, plans must be approved in advance.
- **Platforms, turf, or other temporary surfaces** – Temporary surfaces may be placed on the street provided they leave no permanent marks. Storm drains must not be blocked or covered.
- **Vertical elements** - Any continuous vertical elements must not exceed 42” total height along the three outside edges of the dining areas, including fencing, poles, or plantings.

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- **Visibility** - Space must allow for adequate visibility for all road users, including pedestrians, cyclists, and drivers, as determined by DPW. Fencing, poles, and planters on barriers must be approved in advance, as they can block sight lines or pedestrian access.

**Protective barriers** - The City has a limited number of 10' long concrete barriers for use by restaurants upon request. To inquire, contact Isaac Prizant, (617) 796-1483, [iprizant@newtonma.gov](mailto:iprizant@newtonma.gov). Restaurants may wish to [purchase or rent barriers](#). Barriers should be 42" high and may be either water-filled or concrete. Any privately purchased barriers must be maintained and stored by the restaurant in the off season.

- Barriers are required fully along the three edges of seating facing the street, unless otherwise specified by City staff.
- A non-protective barrier along the fourth edge along the curb is required if alcohol is served.
- Barriers must be concrete or water-filled, a minimum 32" high. A 42" height is preferred.
- Restaurants may paint the City barriers for decorative purposes only. No logos, advertisements, promotions, nor written text is allowed on the barriers. Restaurants may be required to remove any barrier paintings prior to returning the barriers to the City.
- Any reflective materials added to the outside of the barrier by the City shall not be covered or removed.
- The outside edge of barriers cannot extend more than the width of the adjacent parking space. To maximize useful space for dining, particularly in locations with 1-2 parking spaces, it is recommended that restaurants purchase their own 4-6' barriers for the side perpendicular to the sidewalk. (The City's 10' barriers need to be placed at an angle to stay within the width of a parking space, resulting in substantial reductions to the available dining area.)
- Any privately purchased safety barriers must be maintained and stored by the restaurant.

**Seating Capacity** - Seats in the public way do not count towards a restaurant's City-approved seating capacity relative to parking requirements. However, seating may be constrained by:

- Emergency access requirements.
- Obstacles in the public way (such as hydrants), and
- The Uniform Plumbing Code, which limits the number of seats relative to the number of plumbing fixtures available to patrons. In addition, the Architectural Access Board requires a ratio of the plumbing fixtures to be accessible.