



Office of the
SELECT BOARD

TOWN OF NEEDHAM

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Article 4 October 25, 2021 Special Town Meeting Amend Zoning By-Law - Outdoor Seating Frequently Asked Questions

Why is the Town proposing changes to outdoor dining policies in Needham?

The Town has heard from businesses and residents that a silver lining of the pandemic has been the increased availability of outdoor dining. Outdoor seating allowed restaurants to meet social distancing requirements and serve patrons who did not feel comfortable eating indoors. In response to an online survey in July 2021, 1194 of 1233 respondents (96.8%) said Needham should continue its expanded outdoor dining program beyond the COVID-19 State of Emergency. Residents and visitors told us that outdoor seating added vibrancy to Needham Center, allowed them to support local businesses, and helped foster connections with friends and neighbors.

What are the Town's goals for expanded outdoor dining?

The Town's outdoor dining policies aim to meet these guiding principles:

- Create quality public spaces that contribute to people's health, happiness, and sense of connection to Needham and with each other.
- Support small businesses through added vibrancy and engagement in our business districts.
- Maintain safe and accessible sidewalk access for all users.
- Balance the needs of other street activities, including adequate parking infrastructure.

What outdoor dining is allowed or prohibited today?

There are two sets of existing outdoor dining policies: The Town of Needham's Zoning By-law Section 6.9 and Massachusetts' [Chapter 20 of the Acts of 2021](#). Zoning By-law Section 6.9 (the Town's pre-pandemic outdoor dining policy) allows restaurants whose outdoor seating applications meet these criteria to be reviewed via an expedited Planning Board approval process:

- Outdoor seating is limited to April 1 - October 31,
- The seating is not on a designated or required landscaped area, parking lot, or drive aisle, and
- The outdoor area does not increase restaurant seating capacity by more than 30%.

Restaurants proposing outdoor seating that does not meet the criteria must undergo a full Special Permit review by the Planning Board. Under the existing Zoning By-law, the Select Board may grant the use of sidewalks for outdoor dining, but is prohibited from granting the use of public parking spaces. The Select Board cannot approve outdoor seating on public property earlier than April 1 or after October 31.

As part of the State's COVID-19 pandemic response, Governor Baker issued an Executive Order that allows cities and towns to approve outdoor dining applications without adhering to existing state and local requirements. Chapter 20 of the Acts of 2021 extends these flexibilities until April 1, 2022, and is intended to provide time for interested cities and towns to update local outdoor dining policies and smoothly transition businesses.

What is being proposed to change?

The Planning Board has proposed an amendment to Zoning By-law Section 6.9 to be placed on the warrant for the October 2021 Town Meeting. Article 4 includes five changes to our existing zoning:

- Extends outdoor seating to all eat-in restaurants (not just those with waitstaff).
- Enables outdoor seating in public parking areas.
- Enables the Select Board to conduct public hearings on applications for public property.
- Allows the Select Board to approve outdoor seating on public property beyond April 1 - Oct 31. The Planning Board already has the authority to do so on private property.
- Makes technical corrections to update "Board of Selectmen" to "Select Board".

Why are the Select Board and the Planning Board both involved in approving outdoor dining? What are their different roles in the process?

The Select Board determines the use of public rights of way and certain Town-owned properties, including sidewalks, on-street parking spaces, and public parking lots. The Select Board is also the local licensing authority for all alcohol licenses and issues common victualler licenses, which allow restaurants to operate.

The Planning Board and the Zoning Board of Appeals determine the allowable uses of land including outdoor seating on private property. When issuing permits to allow businesses to operate, the Planning Board and the ZBA may also set parking requirements and seating capacities for each restaurant, among other conditions.

The specific details of each request to establish outdoor seating will determine if the applicant must go before the Planning Board/ZBA, the Select Board, or both. Town staff will advise applicants on what approvals are required, specific to their application.

What criteria will the Select Board use to review applications for outdoor seating?

On October 12, 2021, the Select Board adopted an Outdoor Dining Licenses policy, which outlines how the Board will review outdoor seating applications for public property, if Article 4 is approved by Town Meeting. Among other criteria, the Board will weigh pedestrian and vehicular circulation, the safety of restaurant patrons and the public, and if parking for patrons of the restaurant and nearby businesses is adequately available. The full policy (#SB-LIC-016) can be found at: <http://www.needhamma.gov/3649/BOS-Policy-Section-D-LICENSINGPERMITS>.

When would outdoor dining be allowed to operate?

The outdoor dining season on public property would run April 1 - November 30. The Select Board and Planning Board would have discretion to extend beyond that timeframe or adjust as needed for snow removal or roadway and sidewalk construction.

How will the Town ensure outdoor seating areas are safe and accessible?

The Select Board's Outdoor Dining Licenses Policy details the health, safety, and access requirements for all locations, including but not limited to:

- a minimum sidewalk width of forty-eight inches (48") and a minimum width of thirty-six inches (36") of unobstructed pedestrian paths must be continuously maintained,
- seating cannot obstruct or otherwise interfere with visibility at intersections,
- seating may not obstruct any fire exit, fire escape or other required ingress or egress,

- seating area must be accessible to people with disabilities and comply with all applicable laws, ordinances and regulations concerning accessibility and non-discrimination in the provision of services,
- seating placed near or adjacent to public ways or parking lots that vehicles can pull up to or travel by must have crash protection, such as concrete barriers, and
- if an applicant is requesting the use of a designated handicap parking space for outdoor dining, the Board may not approve unless a suitable alternative location for handicap parking is identified.

Will restaurants be required to pay for the exclusive use of public property?

The Select Board policy includes an annual fee schedule:

- \$25 application fee, which will be credited toward the licensing fee.
- \$100 sidewalk licensing fee, which will be waived if the applicant is also approved for the use of parking spaces.
- \$250 per public parking space licensing fee (maximum of three spaces allowed). Under this structure, the range of possible fees is \$100 - \$750. These fees will not cover the Town's anticipated costs (e.g., buying and installing jersey barriers, forgone meter revenue). The fee structure aims to recognize that the Town is providing something of value to businesses, through the exclusive use of public property, and that businesses are providing a public benefit to Needham through expanded outdoor dining.

Will there be a cap on the number of parking spaces that can be used for outdoor dining?

The Select Board's policy caps each restaurant at a maximum of three public parking spaces.

Will parking meter prices increase?

No, there are no plans to increase parking fees related to the expansion of outdoor dining.

What are the next steps for these proposals?

If Article 4 is approved, implementation would begin in late fall/early winter to process applications for outdoor dining season beginning on April 1, 2022.