



## TOWN OF LENOX MASSACHUSETTS

### Outdoor Dining License Application

Applicant's D/B/A: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Applicant's Telephone Number: \_\_\_\_\_

Applicant's E-Mail: \_\_\_\_\_

Owner of Building: \_\_\_\_\_

Owner's Telephone: \_\_\_\_\_

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Street Address of License Activity: \_\_\_\_\_

Assessors Map & Parcel # for License Activity: Map \_\_\_\_\_ Parcel \_\_\_\_\_

Zoning District: \_\_\_\_\_

Fee: \$125

Number of Seats: \_\_\_\_\_ Number of Tables: \_\_\_\_\_

Proposed Dates for Outdoor Dining: \_\_\_\_\_

Proposed Times for Outdoor Dining: \_\_\_\_\_

Do you propose to locate Outdoor Dining on Town owned property: Yes \_\_\_ No \_\_\_

Does the Location Hold on Alcoholic Beverage License: Yes \_\_\_ No \_\_\_

The serving or consumption of alcohol on any public property that is the subject of an Outdoor Dining License is expressly forbidden. The holder of the liquor license shall provide a detailed alcohol control play/strategy as part of their Outdoor Dining application packet.

Width of the Sidewalk: Any outdoor dining use must maintain at all times sufficient width on the sidewalk for unimpeded pedestrian and wheelchair passage.

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I certify under penalties of perjury, that the above information is true and that named applicant has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Town of Lenox Outdoor Dining License Application – Submission Requirements**

An original and seven copies of the application, plans and all support materials.

- Plans should be drawn to scale and show the dimensions and location of the outdoor dining area; the arrangement of outdoor dining furniture, fencing, umbrellas, other obstruction, and the width of sidewalk available for pedestrian/wheelchair passage. (Please provide plans in an 8 1/2" x 11" format. Please – no rolled plans.)
- Provide supporting information such as colors and materials to be used in the outdoor dining area. Photographs or samples of the furniture are encouraged.
- All food service in outdoor dining areas must comply with the procedures and regulations of the Lenox Board of Health and must be approved by Tri-Town Health prior to submittal.
- Liquor liability insurance certificate.

Post approval submission requirements for Outdoor Dining on Public Property:

- Signed License Agreement.
- Workers compensation affidavit and insurance certificate.
- Comprehensive public liability and property damage liability insurance certificate.

## CHAPTER XXVI

### REGULATIONS FOR OUTDOOR DINING LICENSES

These regulations are adopted pursuant to Chapter I of the General Bylaws of the Town of Lenox.

1. Applications for outdoor dining licenses shall be made to the Board of Selectmen by submission of an Application Form to the Town Manager. The application shall include the name, address and telephone number of the applicant and the owner of the building if different than the applicant. The application shall be accompanied by a copy of the current Permit to Operate a Food Establishment issued by Tri-Town Health.
2. The application shall include seven copies of a plan containing information regarding the location of the outdoor dining area including points of ingress and egress and lighting.
3. Seven copies of the application and all supporting materials shall be submitted to the Town Manager, who, upon determining that the application is complete, shall distribute the application to the Police Department, Fire Department, Tri-Town Health, Department of Public Works and Building Inspector. If the location is within the Lenox Historic District, the application shall also be given to the Historic District Commission.
4. The Board of Selectmen shall schedule a hearing date and notify the applicant and the above referenced departments. The departments shall have 14 days to submit written comments.
5. If the outdoor dining facility is located on town property such as a sidewalk, the owner and operator of the restaurant shall sign a License Agreement and shall provide a Certificate of Insurance as required by the Bylaw and shall pay a License Fee as established by the Board of Selectmen before issuance of the License and before commencement of any activities under the License.
6. If the outdoor dining facility is located on town property, alcoholic beverages cannot be served on town property. An Outdoor Dining License shall not be construed as, nor shall it permit the alteration or extension of, premises where alcoholic beverages are served. Applicants who hold an alcoholic beverages license shall provide an alcohol control plan as part of their Outdoor Dining application. The alcohol control plan shall include what steps the manager shall take to ensure alcohol remains only on the licensed premises, including signage, staff instructions on monitoring of the outdoor dining area, etc. The applicant shall also submit the TIPS or alcohol server training certificates for the manager and all shift managers.

7. If the outdoor dining facility is located on town property the Licensee shall provide evidence of insurance, as required by the Bylaw and the License Agreement. The Licensee shall carry or require that there be carried Worker's Compensation insurance for all employees and those of its contractors and/or subcontractors engaged in work at the outdoor dining facility, in accordance with the State Workers' Compensation Laws. The Licensee shall furnish a certificate of insurance to the Town evidencing coverage of Workers' Compensation Insurance. In addition, the Licensee shall carry Comprehensive Public Liability and Property Damage Liability Insurance with limits hereinafter set forth to cover the Licensee and its contractors and subcontractors against claims due to accidents which may occur or result from operators under this agreement. Such insurance shall cover the use of all equipment related to the provision of sidewalk dining services. The Comprehensive General Liability Policy shall insure against all claims and demands for bodily injury and property damage with respect to the sidewalk dining facilities and services, with limits of \$5,000,000 per occurrence and \$5,000,000 in the aggregate. The Town shall be named as an "additional insured" in all policies of such insurance. The Licensee (and their heirs, successors and assigns in interest) shall hold harmless, defend and indemnify the Town of Lenox and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under this agreement. The Licensee shall furnish a certificate of insurance to the Town prior to commencing provisions of the facilities and services authorized under the Licensee. Where such insurance is renewed or replaced, the Licensee shall furnish the Town with a certificate of insurance evidencing the same.
8. Upon notification from the Department of Public Works that weather conditions or work to be performed on the property of the Town requires removal of the outdoor dining furniture, the applicant shall immediately remove all of its property associated with the outdoor dining license from the public property.
9. Revocation – Any person or organization who violates any provision of the Bylaw shall receive a written notice sent by certified mail at the address set forth by the applicant in the application, or by service by the Chief of Police stating that the license shall be revoked 5 days from receipt of the notice of revocation. The license shall be deemed revoked 5 days after receipt of the notice unless within that time the person or organization files a written notice of appeal with the Select Board. The Select Board shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal. A final decision regarding revocation of the license shall be made within 15 days of closing the appeal hearing. If no appeal is filed within 5 days of receipt, the license shall be deemed revoked.
10. The Licensee shall comply with all applicable laws, rules, regulations, and conditions of other licenses and permits.
11. In granting a License, the Board of Selectmen may impose such additional conditions as it determines to be appropriate.

**TOWN OF LENOX**  
**REGULATION OF SEWER USE**  
(Revised May 25, 2011)

"Regulation of Sewer Use: regulating the use of public and private sewers and drains, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system, authorizing the Town to establish reasonable charges for the use of sewers, and providing penalties for violations thereof: in the Town of Lenox, County of Berkshire, Commonwealth of Massachusetts, enacted in accordance with the provisions of M.G.L. Chapter 40, Section 21, No. 5 and No. 6 and Chapter 83, Section 16, all as most recently amended."

**ARTICLE XI**  
**RATES / IMPACT FEES**

Section 1. Bills for sewer service will be rendered semi-annually on or about May 1, and November 1, and must be paid within thirty days of their postmark date. In the event sewer rates or other charges remain unpaid after the due date, interest will accrue at 12% per annum, a 10% penalty charge will be assessed after a ten business day grace period, the water may be shut off, and a lien may be placed on the property in accordance with the General Laws of Massachusetts. If water is shut off for non-payment, it will not be turned on again until all charges are paid including the then current charges for shutting off and turning on water. Minimum bills will be issued as long an address is physically connected to the Town main even if there is no usage.

Impact fees will be calculated based on gallons of estimated Title V sewer flows assessed at the rate in effect at the time of application for connection. Impact fees calculated on all new residential and commercial connections will be assessed at the full rate. Impact fees calculated on residential property additions will be assessed at one half the full rate in effect at that time. The adaptive re-use of existing commercial buildings, within four years of cessation of previous occupancy, plus any addition to that existing building, the total of which does not result in a new estimated flow that exceeds 120% of the previous estimated flow for the original building, will be assessed for the net increase in gallons of estimated flow at one half the full rate in effect at that time. Impact fee for restaurant outdoor seating will be assessed at \$100 per seat and payment may be divided evenly over a five year period.