

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.