



# **TOWN OF ANDOVER**

## **XI.5**

# **REGULATIONS FOR OUTDOOR DINING LICENSES**

**Board of Selectmen  
Licensing Board**

**Licensing Agent for Board  
Lawrence J. Murphy  
Town Clerk**

**Last Revised: July, 2011**

## **XI.5 REGULATIONS FOR OUTDOOR DINING LICENSES**

These regulations are adopted pursuant to Article XI Section 9 of the General Bylaws of the Town of Andover:

1. Applications for outdoor dining licenses shall be made to the Board of Selectmen by submission of an Application Form to the Town Clerk. The application will include the name, address and telephone number of the owner of the building. The application shall be signed by the owner of the restaurant and shall be accompanied by a copy of the current Permit to Operate a Food Establishment issued by the Board of Health.
2. The application shall also include twelve copies of a plan containing the information required by Article XI Section 9b2 of the Bylaws, and shall also include a plan for outdoor lighting.
3. Twelve (12) copies of the application and all supporting materials shall be submitted to the Town Clerk, who, upon determining that the application is complete, shall distribute the application to the Police Department Public Safety Officer, Fire Department, Board of Health, Treasurer, and Building Inspector. If the location is within the General Business or Mixed Use Zoning Districts, the application shall also be given to the Design Review Board.
4. Upon determination that the application is complete, the Town clerk shall establish a date for hearing on the application before the Board of Selectmen and shall notify the applicant and the departments to whom the application has been submitted for comments. The departments shall submit comments to the Board of Selectmen either in writing prior to the date of the hearing or in person at the hearing on the application.
5. If the license is approved by the Board of Selectmen 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 the License Fee before issuance of the License and before commencement of any activities under the License.

6. Applicants who hold an alcoholic beverages license shall provide a detailed alcohol control plan/strategy as part of their Outdoor Dining application packet. 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, 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 as part of the application packet.
  
7. 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 Workers' Compensation insurance for all employees and those of its contractors and/or subcontractors engaged in work at the sidewalk 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 and, if applicable, Liquor 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 and, if applicable, Liquor Liability Insurance 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 Andover 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. The License is revocable at will by the Town for any reason whatsoever upon written notice to the Licensee from the Town. The License Agreement shall stipulate that in the event of such revocation, the Licensee shall have no recourse or claim against the Town for such revocation whether by way of monetary charges, a suit in equity or otherwise.
10. The Licensee shall comply with all applicable laws, rules, regulations, and conditions of other licenses and permits.
11. In granting a Licensee, the Board of Selectmen may impose such additional conditions as it determines to be appropriate.

**Voted: January 26, 2009**

**Amended: July 11, 2011**