What’s the Current Situation with Outdoor Dining?

At the start of the COVID-19 pandemic, the State and the City of Fall River temporarily eased the process for food establishments to create new outdoor seating areas in the public way and on private property. A number of businesses in Fall River took advantage of these changes to install outdoor seating areas, with positive results. For the 2022 season, the City of Fall River has taken additional steps to streamline its permitting process for outdoor seating areas to ensure that you can continue to have this option.

This document describes all of the Outdoor Dining Program regulations and guidelines for how to apply for a permit and set up your outdoor seating area. Please read it carefully to make sure your application process goes as smoothly as possible.

If you have any questions about the Outdoor Dining Permit or application please don’t hesitate to reach out to the Licensing Board, licensingboard@fallriver.org, (508) 324-2530.

Permit Information

In order to expand or create a new outdoor seating area, including on sidewalks, on-street parking spaces, and private property, you must first apply for and receive a 2022 Outdoor Dining Permit.

The 2022 Fall River Outdoor Dining Permit will run from April 1, 2022 – November 1, 2022. All outdoor dining areas permitted under the 2022 Outdoor Dining Permit must be removed by November 1, 2022, unless granted explicit permission by the City to remain beyond this date.

In addition to the permit application, some additional documentation must be submitted to complete the application process. Carefully review the Application Checklist at the end of this guide to ensure that you include all required documentation with your permit application.

After submitting your permit application materials, please allow up to 2 weeks for the City to review your application and issue your permit. Failure to comply with application requirements may result in delays.

Who is Eligible to Apply?

You must meet the following criteria to be eligible for an Outdoor Dining Permit:

- A ground-floor food establishment with a Common Victualler License.
- Compliance with the Outdoor Dining Permit application process, as described in this guide.
- Compliance with the regulations of the Outdoor Dining Program, as described in this guide, as well as all other applicable state and local laws and policies.
**What are the Outdoor Dining Rules?**

**Hours of Operation**
You are allowed to operate outdoor seating between the hours of 7am and 10pm. There is a section on the permit application for you to indicate your proposed hours for various days of the week. If approved, you cannot offer service to your outdoor seating area outside of the hours stated in the application. You may request to operate outdoor seating later than 10pm on your application, and this will be reviewed by the Licensing Board on a case-by-case basis.

**Noise**
Many of Fall River’s businesses are within close proximity to residential neighborhoods. To respect our neighbors, outdoor seating must comply with *Article 46-7: Noise* of the Fall River Zoning Ordinance: https://ecode360.com/29926864.

**Entertainment**
If you wish to provide entertainment in your outdoor seating area, such as music or televisions, you must get separate approval from the Fall River Licensing Board. Please contact the Licensing Board at licensingboard@fallriverma.org or (508) 324-2530 for information on obtaining an Entertainment License. If you have an existing Entertainment License, you must contact the Licensing Board with your request to extend your license to outdoor entertainment. The Board will need to know the proposed type, location, and hours of entertainment.

**Alcohol Service**
If you have an existing liquor license and wish to serve alcohol in your outdoor seating area, you must submit a request for an Alteration of Premises for your Alcoholic Beverages License. The form can be found here: https://www.mass.gov/how-to/amend-your-alcoholic-beverages-retail-license-alteration-of-premises-or-location-change-abcc.

The completed Alteration of Premises form should be submitted to the Fall River Licensing Department after your Outdoor Dining permit has been approved. The form can be delivered directly to the Licensing Department at 1 Government Center or emailed to kayash@fallriverma.org.

If the Licensing Board approves the Alteration of Premises request, it will forward the request to the Alcoholic Beverages Control Commission (ABCC) for final approval. Your amended Alcoholic Beverages License will be issued following ABCC approval, at which point you may begin serving alcohol in your outdoor seating area.

While awaiting approval of your amended Alcoholic Beverages License, you may not serve alcohol in your outdoor seating area.

Alcohol service and consumption in approved outdoor seating areas must comply with all ABCC requirements: https://www.mass.gov/service-details/guidelines-and-faqs.
Barriers
To ensure the safety of patrons, any outdoor seating area that overlaps or abuts motor vehicle space, such as an on-street parking space, a parking lot, or a private street, must be separated from the motor vehicle space by protective concrete barriers 2 feet high and 2 feet deep, with a maximum space of 20 inches between barriers.

For a seating area in a parking lot, concrete barriers must enclose the seating area on all sides where it could potentially come into contact with a vehicle (see the example in the photo on the right).

For a seating area in an on-street parking space, concrete barriers must enclose the seating area on traffic facing sides. The far side of the seating area that is not in conflict with oncoming traffic must be enclosed by a solid separation barrier, such as planters or fencing, but does not require a concrete barrier (see the diagram to the right).

It is the responsibility of the restaurant to acquire, install, and remove the concrete barriers. Concrete barriers can be purchased from the following contractors:

- Coastal Excavation – (508) 989-3370
- Khoury Excavation – (508) 294-6951

The State also requires that any outdoor seating areas where alcohol is being consumed, whether on public or private property, must be fully enclosed by separation barriers to prevent access from a public walkway. These separation barriers do not need to be concrete. Commonly used separation barriers include planters, fencing, lattice, or ropes.

Outdoor seating areas that do not abut motor vehicle space, such as on the sidewalk, and do not have alcohol consumption are not required to have barriers.
Assembly and Disassembly
No part of your outdoor seating area or structures should be bolted down or fastened to the ground or other objects without City approval. Your outdoor seating area must be easy to assemble and disassemble in case of emergency situations.

Securing Furniture
When not in use, any furniture used in your outdoor seating area should be brought inside or secured and locked together to prevent any possible obstructions. Furniture should not be secured to any other objects, such as trees, streetlights, or barriers. Please note on your application where and how your furniture will be stored.

Canopies
All canopies (umbrellas, tents, and others) must be weighted down such that they do not move, blow over, or cause damage in severe weather or high winds. In the event of forecasted or sudden weather events such as high winds, extreme rain, ice, or snow, or at the request of the City, you must remove any canopies and store them securely.

Canopies must be free and clear of all ignition sources and fire hazards at all times. Canopies may not extend beyond the edge of your outdoor seating area and may not obstruct pedestrian access or access to utility infrastructure.

If you wish to use a tent or install a structure with a fixed canopy or roof, you must submit a separate building permit application. To request the Building Permit application, please contact the Building Department at buildings@fallriverma.org or (508) 324-2500, or visit the Building Department office at 1 Government Center, Fall River, MA 02722.

Tents must be flame retardant and you must also provide a copy of the Tent Fire Certification with your application materials.

Heating
If you are planning to use propane heaters in your outdoor dining area, you must submit a separate permit to the Fire Department, which can be found here: https://www.fallriverma.org/wp-content/uploads/2018/09/Storage-of-Inflammables-Application.pdf.

If you are planning to use electrical heaters in your outdoor dining area, you must submit a separate electrical permit, which can be found here: https://www.fallriverma.org/wp-content/uploads/2017/08/Electrical-Application-Form-fillable.pdf.

Electrical
Electrical wiring for your outdoor seating area cannot obstruct pedestrian travel and must be run overhead with a minimum 10-foot clearance. Wiring cannot be fastened to or supported by trees or other vegetation.

Per State regulations, you must obtain an electrical permit if you wish to perform any electrical work. The application can be found here: https://www.fallriverma.org/wp-content/uploads/2017/08/Electrical-Application-Form-fillable.pdf.
Nighttime Visibility
For the safety of patrons, an outdoor seating area that overlaps or abuts motor vehicle areas must have Class II or Class III reflective tape placed on the outside face of your barriers (facing toward motor vehicle traffic). The tape must be placed near the top of the barriers and be at least 24 inches long. Class II or Class III reflective tape can be purchased at some hardware stores. In certain cases, you may be able to use motor vehicle compliant plastic reflectors instead, placed at the corners of your outdoor seating area. Please indicate in your application if you plan to use plastic reflectors instead of reflective tape.

Access to Public Utilities
Your outdoor seating area must not block fire hydrants or cover any utility or manhole covers. Full access to utility valves, shut offs, and controls must be maintained at all times.

Water Drainage
Your outdoor seating area must not be installed over street drains unless accommodations for water flow are made and approved.

Street Trees
There must be at least a 1-foot buffer between tree pits and any part of your outdoor seating area. An additional 5-foot buffer is required between tree pits and any heating elements.

Regular Operations and Maintenance
Restaurant owners are responsible for all regular operations and maintenance associated with the outdoor seating area, including, but not limited to, cleaning and sweeping, snow removal, trash removal, planter upkeep, and daily setup and breakdown.

How do I Set Up My Outdoor Seating Area?

Location of Outdoor Dining Permit Seating Areas
Outdoor seating areas are typically allowed only in the areas adjacent to your storefront. If you are proposing an outdoor seating area that extends in front of an adjacent business, it will be considered only if written approval is provided by the adjacent property owners and tents and included with your application materials.

Accessibility
All outdoor seating areas must comply with the State’s Outdoor Dining/Seating Fact Sheet for Accessibility Considerations: https://www.mass.gov/doc/outdoor-dining-fact-sheet/download.

A minimum 36-inch-wide route is required at all times on the sidewalk and within the outdoor seating area to be considered accessible, per the Massachusetts Architectural Access Board (MAAB 20.4). We have indicated the section of the MAAB standards that are applicable in the requirements below.

A width of at least 48 inches is recommended to allow for additional maneuvering space. No obstructions can exist that reduce the width of the accessible route at any point. The surface of the accessible route must be stable, firm, slip resistant (MAAB 20.9), free from changes in level exceeding ½ inch and unbeveled (MAAB 29.2), and free from protruding objects that extend into the accessible route (MAAB 20.6).
At least 5%, but not less than one of the tables in the outdoor seating area must be on an accessible route (MAAB 17.2). Accessible tables must be distributed by the size and locations of the space being offered. Tables that are provided for large or small groups, in different locations, or for different services would all be required to meet the 5% obligation (MAAB 17.2). Seating at accessible tables must be movable and not fixed to the table like a picnic bench or school cafeteria table (MAAB 35.1). Accessible tables must be connected by an accessible route to the outdoor seating entrance/exit, restrooms/portable toilets, and other unique amenities.

A 36-inch clearance (access aisle) is required between accessible tables. No seating or any other obstruction shall overlap the access aisle. (MAAB 17.2.2). At each accessible table, a clear floor space measuring 36-inches by 48-inches should be provided to allow for an individual to easily set themselves at the table. This space should not overlap with the knee space depth under the table by more than 19-inches (MAAB 17.2.3). Knee space of at least 27-inches high, 30-inches wide, and 19-inches deep must be provided to allow for an individual using a mobility device to maneuver and use the table (MAAB 17.2.4). The tops of the accessible tables shall be from 28-inches to 34-inches above the floor or ground (MAAB 17.2.5).

**Seating Areas in On-Street Parking Spaces**

Seating areas in on-street parking spaces, often referred to as “parklets,” are typically either at street-level or at sidewalk-level. The benefit of a street-level parklet is that it is faster and less expensive to install. To meet accessibility requirements, street-level parklets must have a ramp from the sidewalk to the street with a maximum grade of 8.33% (MAAB 20.9). For a typical 6-inch curb, this requires a 6-foot ramp. Ramps should also be a minimum of 4 feet wide and have 4 feet of clear space at the top and bottom.
The benefit of a sidewalk-level parklet is that you do not need a ramp, so you can maximize space for seating. However, it usually requires higher up-front construction costs. Parkade has created a guide to building sidewalk-level parklets that may be useful: https://parkade.com/parklet-guide-and-how-to-build-a-parklet. Keep in mind that parklets must comply with all Program Regulations and Design Guidelines described above.

Your on-street seating areas must not conflict/overlap with any of the following:

- Vehicle travel lane
- Handicap accessible parking
- Bus stop
- Crosswalk
- Bike lane
- Fire access lane
- Loading zone
- No stopping zone
- Within 10 feet of a fire hydrant

Examples of Possible Outdoor Seating Area Configurations

The following diagrams show common configurations of outdoor seating areas, but do not include all possible configurations. Use these diagrams to think about how you want to set up your outdoor seating area. They are not drawn to scale.

Façade-Side Sidewalk Seating with No Separation Barriers (No Alcohol)
Façade-Side Sidewalk Seating with Separation Barriers

Curbside Sidewalk Seating with Separation Barriers
Sidewalk Seating with Sidewalk-Level Pedlet (Walkway in the Parking Lane)

Street-Level Parklet Seating
Sidewalk-Level Parklet Seating

Pedestrian Clear Path

Separation Barrier

Concrete Barrier

2’

6-8’

Alleyway Dining with Separation Barriers (Private or Public)

Food Establishment

Separation Barrier

At least 3 feet

Adjacent Building
Application Checklist
The following checklist describes the documentation that is required for all permit applicants, as well as some additional documentation that may be required in certain circumstances. To avoid processing delays, please review this checklist carefully to ensure that you have included all of the necessary documentation with your application.

What you MUST provide
*The following items are required for all Outdoor Dining Permit applicants:*

1. **Application Form**
   A completed application indicating your desire for an Outdoor Dining Permit. The application form includes general information about your restaurant/establishment and your proposed outdoor seating area.

2. **Site Plan Drawing**
   Your site plan drawing is a detailed sketch, drawn to scale, of your proposed outdoor seating area. The site plan drawing should be large enough to be legible and accurately show the following:
   - Dimensions (length and width) of the proposed outdoor seating area and where it is located in relation to the restaurant.
   - Points of access and egress (entrances and exits).
   - Dimensions and heights of any proposed structures (e.g. parklet).
   - Location, dimensions, and number of tables, seats, steps/ramps, planters, host stand, umbrellas, outdoor lighting elements, doorways, trees, parking meters, bus shelters, benches, trash receptacles, or any other obstructions, either existing or proposed.
   - Location and dimensions of accessible tables and accessible route(s).
   - Location and type of barrier enclosures (if applicable), and height of barriers.
   - Location and description of proposed heating devices.
   Please be as detailed as possible. Site plan drawings that are unclear or do not provide enough detail could result in delays in permit approval.

3. **Photographs**
   Eye-level photos of the proposed location for your outdoor seating area.

4. **Trash and Pest Control Management Plan**
   A detailed plan for how you will manage trash produced by the outdoor seating area and prevent the attraction of pests, including rodents.

5. **Certification of Insurance**
   Copy of your current certificate of insurance naming the City of Fall River as additional insured.

6. **Application for a Tax Certification Form**
   Any person or entity intending to apply for or renew a municipal license or permit must complete this form to obtain a certification that they have complied with Section 14-4 of the Fall River Code of Ordinances.
What you MAY HAVE TO provide

You may need the following items, depending on the circumstances of your outdoor dining area:

❖ **Hold Harmless Agreement Form**
   Required for use of any part of any public way (sidewalk, public parking areas, public alleys, etc.).

❖ **Alcoholic Beverages License Alteration of Premises Form**
   If you have an existing liquor license and wish to serve alcohol in your outdoor seating area, you must submit a request for an Alteration of Premises for your Alcoholic Beverages License. The form can be found here: [https://www.mass.gov/how-to/amend-your-alcoholic-beverages-retail-license-alteration-of-premises-or-location-change-abcc](https://www.mass.gov/how-to/amend-your-alcoholic-beverages-retail-license-alteration-of-premises-or-location-change-abcc). See above for instructions.

❖ **Proof of Consent by Third Parties**
   If you are proposing an outdoor seating area that is partly or fully in front of other properties or on the private property of a third party, you must submit proof of consent by these other parties.

❖ **Fire Department Permit**

❖ **Electrical Permit**
   If you are planning to do any electrical work related to your outdoor seating area, including running wiring or using electrical heaters, you must submit a separate electrical permit, which can be found here: [https://www.fallriverma.org/wp-content/uploads/2017/08/Electrical-Application-Form-fillable.pdf](https://www.fallriverma.org/wp-content/uploads/2017/08/Electrical-Application-Form-fillable.pdf).

❖ **Building Permit**
   If you wish to use a tent or install a structure with a fixed canopy or roof, you must submit a separate building permit application. To request the Building Permit application, please contact the Building Department at buildings@fallriverma.org or (508) 324-2500, or visit the Building Department office at 1 Government Center, Fall River, MA 02722.

❖ **Tent Fire Certification**
   Tents must be flame retardant and you must provide a copy of the Tent Fire Certification.

❖ **Entertainment License**
   If you wish to provide entertainment in your outdoor seating area (such as music or televisions), you must contact the Licensing Board at licensingboard@fallriverma.org or (508) 324-2530 for information on obtaining an Entertainment License or extending your existing Entertainment License to include outdoor entertainment. The Board will need to know the proposed type, location, and hours of entertainment.