



**THE CITY OF PITTSFIELD**  
**OFFICE OF THE MAYOR**  
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**ORDER PROVIDING TEMPORARY ACCOMMODATIONS FOR OUTDOOR  
RESTAURANT DINING SERVICE**

**WHEREAS**, on June 1, 2020 Charles D. Baker, Governor of the Commonwealth of Massachusetts, issued COVID-19 Order No. 35 under which Section 4. Preparations and Accommodations for Outdoor Restaurant Dining Services, authorizes me as Mayor of the City of Pittsfield to establish a process for approving requests for outdoor table service;

**WHEREAS**, such process takes into consideration:

- Whether or not the restaurant is currently licensed to serve alcohol;
- Whether the proposed outdoor seating will be on a public way or public property or will be on private property; and
- Currently City regulations provide for at least four permits relative to outdoor table service, including:
  - The sidewalk café license (Chapter 20, Section 16 of the City Code);
  - The permit to occupy a right-of-way;
  - Permits associated with the use of tents and/or
  - The alteration of premises license.

**WHEREAS**, under the Sidewalk Café Ordinance, Chapter 20, Section 16 of the City Code, regulates three categories of outdoor seating for eating establishments:

- Non-alcohol serving establishments proposing up to nine (9) seats or two (two) tables, which is allowable by-right without a license but must obtain an Occupy the Right-of-Way permit from the Department of Public Services.
- Non-alcohol serving establishments proposing ten (10) or greater seats and three (3) or greater tables, which must receive administrative approval by the Licensing Board Clerk. The approval process consists of review and sign-off by pertinent departments within 14 days of receipt of the application. The entity must also obtain an Occupy the Right-of-Way permit.
- Alcohol serving establishments proposing any outdoor seating must receive approval by the Licensing Board and the Alcoholic Beverages Control Commission as an alteration of premise. This is required regardless of whether the applicant intends to serve alcohol in its outdoor seating. This process includes the issuance of a Sidewalk Café License by the Licensing Board. The review from the pertinent departments above is still required, as is the Occupy the Right-of-Way permit.

**WHEREAS**, the Governor's COVID-19 Order No. 35 and the Advisory issued on June 1, 2020 by the Alcoholic Beverages Control Commission expands the authority of Pittsfield's Licensing Boards between June 1, 2020 and November 1, 2020 until such Order is rescinded or until the state of emergency is ended, whichever occurs first. During this time period the Licensing Board has sole authority to approve outdoor seating for restaurants that already have licenses to serve alcohol for on-premises consumption. ABCC approval is not required. In addition, the Licensing Board does not need to comply with M.G.L. c. 138 sec 15A, and therefore does not need to provide advance notice to abutters or hold a public hearing on applications.

**NOW, THEREFORE,** I hereby order the following:

1. The following local fees are temporarily suspended:
  - a. the \$100 application fee for outdoor seating within the public right-of-way;
  - b. the \$200 license fee for outdoor seating within the public right-of-way;
  - c. the Occupy the Right-of-Way permit fee of \$50; and,
  - d. any fees associated with the permitting of tents through the Building Department for either outdoor seating or curbside service.
2. The Sidewalk Café licensing process is merged with the permitting process required for the Occupy the Right-of-Way permit, which merger shall incorporate, at a minimum, the following
  - a. Review of the proposed seating plan by internal departments which affirmative sign-off is required prior to issuance of the merged permit;
  - b. Verification by the licensing clerk that the business has obtained the required insurance coverage;
  - c. For eating establishments serving alcohol, the Licensing Board clerk shall verify that the Alteration of Premises Application has been approved; and,
  - d. Once the above is completed, the Department of Public Services would issue the Occupy the Right-of-Way permit and the Licensing Clerk would issue the Sidewalk Café License and notify the business that they are authorized to establish the proposed outdoor seating.
3. The Licensing Board is authorized to approve all alteration of premises applications; and is also empowered if it so desires, to authorize the Chairperson to administratively approve all alteration of premises applications. If the Board chooses to empower its Chairperson to administratively approve applications, approved applications will be ratified by the Licensing Board at its next regularly scheduled meeting. This authorization will expedite approvals, allowing businesses to proceed with reopening more rapidly. In instances where the outdoor seating is proposed to be on the public right-of-way or public property, the merged Sidewalk Café and Occupy the Right-of-Way permitting process shall be conducted in parallel with the Licensing Board's permitting process. Staff from the pertinent departments are directed to expedite the review of applications. For alteration of premises applications involving outdoor seating proposed on private property, the City Planner will review and work with the Chairperson of the Licensing Board and applicants to ensure adequate public health and safety measures are proposed.
4. While not requiring either approval under the sidewalk café ordinance or an occupy the right of way permit, proposals involving outdoor seating on private property may impact previously approved site plans and/or special permits, whether as a result of the loss of parking spaces or other alterations to the property. Proposed temporary curbside pickup arrangements for retailers and restaurants may also impact prior zoning approvals. The need for amendments to approved site plans or special permits as a result of proposed temporary alterations or improvements to property under M.G.L Chapter 40A is hereby suspended. Plans for outdoor seating and curbside pickup shall be submitted to the City Planner in order to provide feedback on public health and safety impacts and to ensure the City's public safety agencies are aware of such changes to private property.
5. Proposed outdoor seating areas are required to be meet accessibility requirements and be appropriately protected from vehicular traffic so as not to present public safety or health risks.

6. Proposed use of tents requires conformance with local permitting requirements and state regulations and orders.
7. The combined occupancy of the establishment including open indoor space and outdoor eating area shall not exceed the total allowed occupancy of the establishment based on the certificate of occupancy and any applicable state orders and regulations.

This order is effective immediately and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

A handwritten signature in black ink that reads "Linda M. Tyer". The signature is written in a cursive, slightly slanted style.

Linda M. Tyer  
Mayor

June 5, 2020