

Selectboard

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**TOWN OF MANCHESTER
SELECTBOARD
OFFICE OF THE TOWN MANAGER**

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Office of the Town Manager

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COMMERCIAL SIDEWALK POLICY

WHEREAS, the Selectboard finds that outdoor seating for restaurants is desirable and a benefit to the community and its economy; and,

WHEREAS, the Selectboard finds that outdoor seating is beneficial to the Town's commercial zones and neighborhoods in general; and,

WHEREAS, the Selectboard acknowledges that the Town's zoning bylaws encourage outdoor seating; and,

WHEREAS, the Selectboard, notwithstanding the previous statements, hereby affirms that the primary purpose of Town-owned sidewalks is to facilitate pedestrian travel and the Selectboard supports a Town transportation system that encourages pedestrian travel; and,

WHEREAS, the Selectboard finds that some of the Town-owned sidewalks are conducive to allowing outdoor seating for restaurants, and due to various reasons some locations are not conducive; and,

WHEREAS, the Selectboard finds that outdoor seating and other activities on Town-owned sidewalks will require appropriate regulation;

The Selectboard hereby adopts the following Policy relative to the permitted use of Town-owned sidewalks in the Town of Manchester:

GENERAL:

The legal owner of a building, or business with the consent of the landowner, in the Commercial 1 and Commercial 3 zoning districts may submit a license application to the Selectboard, on a form approved by the Town Manager. The Selectboard may approve or disapprove at a public meeting a license application to use a portion of the Town-owned sidewalk. License applications outside the Commercial 1 and Commercial 3 districts shall not be considered.

The Selectboard shall not approve license applications where the sidewalk is not located directly in front of and abutting the property used to operate the business.

The landowner and/or business shall comply with all Sewer and Water regulations, zoning bylaws, and shall be current with all payments to the Town, including zoning fees, water and sewer fees and use fees, and tax payments.

any license issued must allow for the safe passing of pedestrians, as well as compliance with the Americans with Disabilities Act and other access standards, regulations and laws. The licensed business shall not under any circumstances limit walking areas of Town sidewalks to less than 72 inches (6 feet) in width. This minimum width shall include the area dedicated to seats, tables and service areas, as well as the area normally used to pull seats in and out of tables for seating purposes.

The primary purpose of any licensed business shall be the sale of prepared foods consumed on site. Business activities on the Town-owned sidewalk shall be limited exclusively to the serving of food and beverages at outdoor seating. Any other sale or display of merchandise inside the Town's right-of-way, including sidewalks, is strictly prohibited; provided, that the Selectboard may waive this prohibition, by vote, for the traditional annual summer sidewalk sale.

Licenses granted under this Policy shall begin no sooner than May 15 of any year and no later than November 15 of any year and shall not exceed six (6) months in length. Business must reapply each year, at least 30 days prior to any planned use.

Patrons shall only be seated after 8:00 AM and no later than 10:00 PM.

No cooking or preparing of food is allowed on Town property including sidewalks. Alcoholic beverages shall be served at the table by a server. The licensed business is not permitted to establish a so-called bar on Town-owned sidewalks, whereby customers may order alcoholic beverages directly from a bartender.

Before approving a license, the Selectboard, through the Town Manager, shall seek the advice of the Zoning Administrator, Design Review Board, Chief of Police and Director of Public Works. The Finance Director shall certify whether the business and/or property owner is current on all payments and obligations to the Town of Manchester.

EQUIPMENT:

Equipment shall be defined as tables, chairs, fencing, umbrellas or awnings, and other items necessary to maintain outdoor seating including temporary serving equipment and a hostess station. No equipment may be fastened to the Town sidewalk or Town property. Awnings must be affixed to building and not Town sidewalk and must be retracted whenever not in use.

All equipment shall be approved by the Design Review Board. Equipment shall be durable, commercial-grade and kept in a state of good repairs. Whenever possible, equipment shall be constructed from polished chrome-looking metal or black metal. Logos on equipment, including umbrellas and awnings, are not permitted.

All equipment shall be removed or otherwise stored in an agreed upon area no later than 11:00 PM each night and until 7:00 AM, or whenever the equipment is not being used; provided, that no equipment may be located on Town sidewalks before May 15 and after November 15.

INSURANCE AND LIABILITY:

The licensed business and/or landowner acknowledges that the Town may provide use of a portion of the Town-owned sidewalk at no cost, and as such the business and/or landowner acknowledges that the Town is not serving in any capacity as a landlord or business partner or associate and the landowner shall assume any and all liability associated with the use of Town-owned sidewalks.

The licensed business and landowner agree to provide the Town of Manchester a valid certificate of insurance naming the Town of Manchester as an additionally insured in an amount not less than \$1,000,000. The business shall maintain insurance that covers accidents and incidents related to the serving of food, and related to alcohol if the business intends to serve alcoholic beverages.

The licensed business and/or landowner agrees to hold harmless and indemnify the Town of Manchester, its agents and employees from any claims that arise from the sale, serving and consumption of food and beverages, including alcoholic beverages.

The licensed business and/or landowner agrees that it is its solely responsible to comply with and adhere to the laws and regulations related to the serving of food and beverages, including public health and alcoholic beverages. The licensed business and/or landowner understands that the State of Vermont and Town of Manchester require a separate license for the outdoor consumption of alcohol.

The Town is not responsible for any damage or theft of property, to and by patrons, employees and the licensed business resulting from the use of Town-owned sidewalks.

OTHER:

No modifications to Town sidewalks are allowed unless approved in writing by the Town Manager.

The licensed business and/or landowner are responsible for providing any lighting necessary to safely serve food and beverages; provided, that all lighting shall be approved by the Development Review Board and Design Review Board.

The Town Manager, at his or her sole discretion, may suspend or terminate a license issued by the Selectboard for non-compliance with this Policy or for safety reasons.

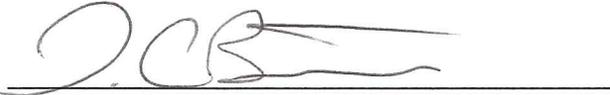
The licensed business may display an informational sign within the licensed sidewalk area during hours of operation; provided that it is allowable under the Town's zoning bylaws and that the sign does not exceed two square feet.

The licensed business shall ensure that noise levels are not unreasonable. Police Officers with the Manchester Police Department, at their sole discretion, may temporarily suspend the use of Town-owned sidewalks when an Officer determines that noise levels are unreasonable or when the Officer determines that a safety issue exists.

The licensed business and/or landowner shall be responsible for any damage to Town-owned sidewalks and street lighting that results from the use of the Town-owned sidewalk. The licensed business and/or landowner is

Responsible for all maintenance related to the use of the sidewalk, including daily removal of trash, debris and food. This may include washing sidewalks. The licensed business and/or landowner shall not dispose of waste in Town-owned trash receptacles. The licensed business shall not use Town-owned electrical outlets for electrical service.

Approved by the Selectboard:



Ivan C. Beattie, Chair

3/19/13

Date Approved