



TOWN OF TYNGSBOROUGH

Office of the Board of Selectmen

Town Offices

25 Bryants Lane

Tyngsborough, MA 01879

Tel: (978) 649-2300 x100 | Fax: (978) 649-2320

TO: Common Victualler & Section 12 Liquor License Holder

FROM: Colin Loiselle, Licensing Agent

DATE: June 2, 2020

RE: Applications for Temporary Outdoor Seating- Food Service & Liquor Service Only

At the close of business yesterday, the Alcoholic Beverages Control Commission notified Local Licensing Authorities that due to the on-going impacts of the COVID-19 pandemic, and in accordance with the Reopening Massachusetts Plan issued by Governor Charles D. Baker, local authorities are able to streamline applications for *temporary modifications* to licensed premises for the service of on premise alcohol. This order applies to all establishments currently in possession of a Section 12 On Premise License.

Under this order, licensees may apply to the Local Licensing Authority (Board of Selectmen) for a temporary modification of their premises to include a designated area outside. The application does not need to be reviewed during a duly posted public hearing, the Local Licensing Authority does not need to advertise the hearing in a local newspaper and does not need to notify abutters. Additionally, the Local Licensing Authorities do not need to get ABCC approval prior to issuing the temporary modification. That said, this order has changed the typical process of getting a modification from 60 days to a matter of a week.

In order to accommodate these requests in time for the Phase II reopening of outdoor service at restaurants (establishments that provide seated food service prepared on-site and under retail food permits) which could resume as early as Monday (pending final confirmation from the Governor), we are notifying you that **you should submit the attached application and required documents by Thursday, June 4th at 5:00 PM** if you intend to apply for a modification. The Board of Selectmen will meet early next week to review requests and could make determinations on applications as early as Monday, June 8. If your application is not received in time to be considered on June 8, you may submit an application to be considered at the Board's next meeting on June 22.

The Board of Selectmen will utilize this same application process to consider amendments to Common Victualler Licenses which are the license required to serve food in Tyngsborough. If you possess both types of licenses, you must apply for both amendments. This can be done using one application. If you only possess a Common Victualler's License, you should only apply for that modification.

Your application will be reviewed by all relevant departments to ensure that your plans adhere to all relevant local, state, and federal building codes, public safety orders, and health guidelines.



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An onsite inspection will be required prior to commencing outdoor service and licenses may be granted contingent on a successful inspection. Please note that these temporary changes will only be in effect until November 1, 2020 or until such a time when this order is rescinded by the Commonwealth, whichever comes first. At that time, your licensed premises will revert back to the previously licensed premises.

Please note that prior to opening, you must be in compliance with both the general business and industry specific standards released by the Commonwealth and available by visiting www.mass.gov/reopening. These include maintaining a COVID-19 control plan template, posting a compliance attestation poster visible to patrons and other visitors, and additional signage to describe the rules for maintaining social distancing, hygiene protocols, and cleaning.

We ask that businesses review important information from the CDC relative to guidance for reopening buildings after prolonged shutdown or reduced operation. That can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/php/building-water-system.html>

Please note the following limitations:

1. The outdoor area must be roped off, fenced off, or blocked off by other means.
2. Installation of a tent is permitted with inspection by the Tyngsborough Fire Department but tents must be open aired, meaning only a roof. No tents with side walls will be permitted.
3. All tables must be 6 feet apart
4. No parties of larger than 6 can be permitted
5. All employees must wear masks at all times in accordance with Governor Baker's Executive Orders
6. Patrons are required to wear masks except for when seated at their own table.

There are additional industry specific standards available at www.mass.gov/reopening that you must familiarize yourself with prior to opening. I have also included the relevant ABCC guidelines with this message.

We will accept emailed submissions of applications and the required documents. You can also drop them off at Town Hall in the black drop box located next to the main entrance. Be sure the envelope is address to Colin Loiselle.



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150*

Jean M. Lorizio, Esq.
Chairman

**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY REGARDING
LOCAL LICENSING AUTHORITIES' APPROVAL OF OUTDOOR SEATING**

On June 1, 2020, Governor Charlie Baker issued an Order Clarifying the Progression of the Commonwealth's Phased Workplace Re-Opening Plan and Authorizing Certain Re-Opening Preparations at Phase II Workplaces, which, in part, details the process for reopening establishments for on-premises consumption. The text of the Governor's Order can be found [HERE](#).

When the Governor declares that the Commonwealth has entered Phase II of its reopening plan all licensees for on-premises consumption of alcohol may commence outdoor table service only. Indoor service will remain prohibited until further order from the Governor.

The Governor's Order also grants the local licensing authorities ("LLA") the authority to expand alcohol licensees' licensed premises for outdoor seating in an expedited process.

Pursuant to the Governor's Order, on application from a licensee that serves alcohol for on-premises consumption¹, the LLA may alter the description of the licensee's licensed premises to expand for outdoor seating that the LLA deems "reasonable and proper." The LLA does not need to comply with M.G.L. c. 138, § 15A, and therefore does not need to provide advance notice to abutters or hold a public hearing on the application. LLAs must continue to follow the ABCC's guidelines issued in 2015 for the approval of outdoor seating, which can be found [HERE](#).

ABCC approval is not required on these applications. Upon approval from the LLA the LLA may issue the amended license forthwith. The LLA must provide notice by mail to the ABCC on all application approvals. For further guidance on the process of approving and issuing these amended licenses LLAs should consult with their counsel.

Please be aware that all expanded premises approved pursuant to this Order are only effective through November 1, 2020, or until the Order is rescinded, whichever is sooner, and revert to their original licensed premises on that date.

The ABCC continues to retain supervision and oversight of all alcohol licensees, including those that expand their licensed premises pursuant to this Order. As always, all licensees must ensure that they comply with the laws of the Commonwealth of Massachusetts, and that sales of

¹ This includes restaurants, bars, hotels, general-on-premises, clubs, war veterans' clubs, continuing care retirement communities, pub-brewers (M.G.L. c. 138, §§ 12 and 19D), farmer-series pouring permits, and manufacturers' pouring permits (M.G.L. c. 138, §§ 19(b), 19B(n), 19C(n), and 19E(o)).

alcoholic beverages take place only as authorized by federal, state, and local law. All questions should be directed to Executive Director Ralph Sacramone at (617) 727-3040 x 731.

(Issued June 1, 2020)



*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114*

Deborah B. Goldberg
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY REGARDING
GUIDELINES FOR EXTENSION OF PREMISES TO PATIO AND OUTDOOR AREAS**

On July 28, 2015, at a public meeting, the Alcoholic Beverages Control Commission approved amendments to its "Guidelines for Extension of Premises to Patio and Outdoor Areas." These amended guidelines supersede the previously issued Guidelines from August 22, 1989. A copy of the amended Guidelines are attached to this Advisory.

As a reminder, all licensees must ensure that they are in compliance with the Laws of the Commonwealth of Massachusetts and that sale of alcoholic beverages take place only as authorized by applicable law. Questions concerning this Advisory can be directed to Ralph Sacramone, Executive Director of the Massachusetts Alcoholic Beverages Control Commission at (617) 727-3040 x 731.

(Issued August 6, 2015)



*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114*

Deborah B. Goldberg
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

**GUIDELINES FOR EXTENSION OF PREMISES TO
PATIO AND OUTDOOR AREAS**

1. Alcoholic beverages cannot be served outside of a licensed establishment unless and until an application to extend the licensed premises has been approved.
2. An application to extend the premises must describe the area in detail, including dimensions, seating capacity, and maximum occupancy.
3. The premises must be enclosed by a fence, rope, or other means to prevent access from a public walkway.
4. The outdoor area must be contiguous to the licensed premises with either (a) a clear view of the area from inside the premises, or, alternatively (b) the licensee may commit to providing management personnel dedicated to the area.
5. The applicant must have a lease or documents for the right to occupy the proposed area.
6. The licensing authorities should consider the type of neighborhood and the potential for noise in the environs.
7. Preferred are outdoor areas where alcohol is served to patrons who are seated at the tables and where food is also available.