

DRAFT

Selectboard Policy on Use of Town Sidewalks for Restaurant Food and Beverage Service

A PURPOSE

The purpose of the sidewalk service permit is to allow the use of Town sidewalks for food and beverage service while ensuring the public safety, health and general welfare of the community.

B PERMIT REQUIRED

1. No sidewalk seating or service is allowed without an Outdoor Dining permit.
2. Permit application must be submitted to the Office of the Town Manager on the prescribed form. Application forms are available on the town website and upon request.

The permit application shall include, but not be limited to, the following:

- a. Hours of service; Days of the week
 - b. Site plan indicating placement of tables and chairs in relation to buildings, vehicle parking, vehicle travel lanes, the sidewalk and any proximate structures.
 - c. Business name and address
 - d. Contact person's name, telephone number and email address
 - e. Certificate of Insurance listing the Town of Middlebury as additional insured
 - f. Copy of liquor license if applicable
 - g. Anticipated start and end dates for proposed use
3. Unless a permanent agreement is in place for use of the Town right-of way for an outdoor dining area, an outdoor dining permit shall be obtained and renewed on annual basis running with the calendar year. The Town reserves the right to seasonally restrict the permit to the first Sunday in April through the 3rd Saturday in November. Outdoor dining areas shall not impact winter maintenance activities.
 4. Permits are subject to approval by the Town Manager.
 5. Applications which include the service of alcoholic or malt beverages are also subject to the regulations of the Vermont Department of Liquor Control and the Selectboard. Use of outdoor dining areas for consumption of cannabis or cannabis-infused products is prohibited unless otherwise pre-empted by State law.
 6. Outdoor dining must remain in compliance with all other applicable state regulations and town ordinances.
 7. Applicant shall agree that they make no property rights claim as to the portion of the Town of Middlebury right-of-way or property, and the Town makes no warranty as to the suitability, convenience or duration of this permit.
 8. Permits for sidewalk service may be revoked or suspended for:

- a. violations of this policy and/or conditions of the permit;
 - b. conflict with other state and local regulations or permit requirements;
 - c. conflict with other permitted public events;
 - d. Town maintenance or repair operations
9. Permits may be temporarily revoked by the Police Chief, Fire Chief, and/or Director of Public Works-Operations as necessary for response to emergencies and maintenance needs.
10. In most cases, a zoning permit is also required for outdoor dining uses. Please inquire with the Department of Planning and Zoning (802) 388-8100 x226. Zoning prohibits the display of advertising on outdoor umbrellas.

C GENERAL CONDITIONS - PERMIT APPLICATION

1. The permit will be reviewed and approved by the Police Chief, Fire Chief, and the Director of Public Works-Operations.
2. Applicant is responsible for securing the furniture after hours. There shall be no claim or burden on the town for loss or damage to furniture or other fixtures or loss resulting from improper use of fixtures. Applicant must provide a Certificate of Insurance to the Town Manager's office listing the Town of Middlebury as additional insured.
3. A minimum 5-foot unobstructed way must be maintained for town sidewalks. This clearance is exclusive of light poles, sign poles, decorative emplacements, ramps, stoops or other structures. Barricade requirements by the Department of Liquor Control for outdoor service of alcohol must not reduce the minimum sidewalk clearance.
4. Outdoor seating will not interfere with means of ingress/egress to any building; such ingress/egress must measure not less than 44 inches.
5. Outdoor seating on sidewalks proximate to angle or head-in parking, absent protective bollards or other structures, shall have sufficient curb height to mitigate runaway vehicles from striking persons seated at sidewalk service areas.
6. An application for any outdoor signage and advertising shall be submitted through the Office of Planning and Zoning, and only permitted in compliance with the Zoning Regulations Section 772. No flags or other attention-getting devices or signage are permitted in the outdoor seating area. Permitted freestanding signs (ex. sandwich boards) must be located outside pedestrian walking and brought indoors at the close of business each day. Umbrellas shall not have advertising, writing or logos other than those which identify the permitted business.
7. All outdoor dining will conform to Town noise ordinance quiet hours. Quiet hours shall be observed after 8pm for uses without outdoor music or table service.
8. Applicant is responsible for ensuring customers and employees do not lock bikes, strollers, etc. to street trees. Barriers may be required for tree protection. Applicant is responsible for replacing street trees that have been damaged due to mistreatment by staff or customers.

9. A zoning permit must be obtained for outdoor lighting fixtures, which shall not be projected toward the street. Applicant will supply all power for outdoor lighting and equipment.

10. Applicant is responsible for providing waste and recyclables containers in the seating area if not attended by waitstaff. Containers shall be emptied as necessary and not allowed to overflow. Applicant is responsible for removal of waste and litter occurring as a result of service as well as cleanup of any spilled liquids. Nothing shall be discharged to catch basins.