

City of Salem, Massachusetts



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and
City Ordinance Sections 2-2028 through 2-2033."**

The City Council Committee on Ordinances, Licenses and Legal Affairs Co-posted with the Committee of the Whole

will met in the Council Chamber on December 7, 2023 at 6:00 PM

for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on

November 30, 2023 at 5:22 P.M.

(This meeting is being recorded)

ATTENDANCE

ABSENT WERE: Councilor Dominguez

Also joining from the COW: Councilors Watson-Felt, Merkl, Hapworth, McClain, McCarthy (joins late), Stott (joins late)

SUBJECT(S)

To discuss carrying matters forward

#235 Establishing an Outdoor Dining policy

Councilor Morsillo begins by explaining that this meeting is a follow-up to the first meeting to clarify language on public safety, calculation of space, and other clarifications.

First amendment, page 1: changing the introductory paragraph of the policy: "public ways" becomes "public space, streets,

Page 2: In section a. Permits and Licenses: Add the sentence: The initial applications shall commence online no later than February 1st."

In section c. Location of Outdoor Premises: add the underlined language for clarification. The outdoor dining area may not extend beyond the storefront of the restaurant unless all adjacent property owners in which the area extends have submitted a letter to the City Council stating their acceptance of the use of the space for the proposed dining area and any proposed conditions or concerns related to such use.

In the next sentence: change should to shall.

Councilor Varela asks about the use of sidewalk space because of temporary sidewalk in parking spaces. If a temporary sidewalk was created, then the owner should be charged for parking spaces. Ms Rennard suggests we discuss this in the Fees section.

Councilor McCarthy joins the meeting.

Page 3: Section f. Change Pets to Dogs throughout. Change approval to variance. Add to end of section: If dogs are allowed, a sign at the entrance of the outdoor dining must be posted indicating dogs are allowed.

Councilor Watson Felt asks why all other pets are allowed except for dogs. Ms Rennard explains that the public health regulations already prohibit all other animals but allow a dog with a variance.

Delete g. Patrons. Re-letter the remaining list items.

Add h. Signage. A sign must be posted at the exit to the outdoor dining stating "No Alcohol Beyond this Point."

Add i. The City may require that the licensed outdoor dining include lighting or other feature or equipment to improve public safety. The removal of such features or equipment at the end of the season must be coordinated with the Department of Public Services.

Section IV. Additional Requirements for Outdoor Dining Area on Public Property. Change section header to underlined text.

Section a. City Review: change will to shall. Add public benefit and delete last line.

Councilor Stott joins the meeting.

Section i: add inaccessible,

Section ii: The use of two parking spaces for outdoor dining shall generally be allowed if all requirements set forth herein are met, however, requests to occupy more than two parking spaces shall be considered on a case-by-case basis by the City Council. (underlined additions/changes)

Section VI. Fees. Section b. For the use of a parking space (20' x 8'). Add the dimensions of a parking space. Add underlined: For street closure or use of a city street not set aside as a parking space,

Councilor Varela explains that if the parking spaces were used to extend sidewalk in order to allow outdoor dining, and if the ordinances still refer to metered parking that is no longer available, the owners should be charged for the parking spaces. Councilor Morsillo asks him to clarify, explaining that ordinances are not always updated to reflect the changes to sidewalk bump-outs. Councilor Varela states that they should pay for both until the ordinances are updated. Ms Rennard explains further that Councilor Varela is asking that until the ordinances are updated, the owner must pay for both sidewalk and street use.

Councilor Watson-Felt states that if the City makes the decision to create the extended sidewalk or bump-out, it should not be on the restaurant owner to pay additional money for the use of sidewalk space. There is no ethical way for the city to charge the owner for parking space if the city has made the decision to remove the parking.

Councilor Varela removes his amendment request because of the lack of consensus from other Councilors.

Councilor McClain asks if we are talking about temporary structures used to facilitate outdoor dining at a site, or about spaces that are permanently removed. Councilor Watson-Felt agrees that this is the distinction. She further states that this covers spaces that were not metered as well, that will now be charged for outdoor dining use.

Ms Rennard asks if there is an amendment being proposed. She explains that for instance with Adriatic, they use sidewalk and street space for tables. They will be charged for both. For Ledger, they use sidewalk space for their tables and will be charged for sidewalk use. But there is a sidewalk bump-out. Should they be charged for that?

Councilor Morsillo states that they should not. The city created the sidewalk extension in that area of Washington Street. The tables are on the sidewalk.

Councilor Varela states that we extended the sidewalk to accommodate the outdoor dining. He just wants to make it equitable.

Councilor Morsillo states that the city made that decision, but dining is on the sidewalk, not on this extension. If the sidewalk extension is removed and if Ledger puts their tables in the street, they should be charged for street use.

Councilor Watson-Felt thinks that the City "blew it" on this one, without Council approval, it was an engineering decision. If we had these regulations before that decision, things may have been different. But what is done is done.

Councilor Cohen suggests we move on from this because he doesn't think we can define if the space was set up by the city in these regulations.

Section c. This becomes the line beginning Businesses using jersey barriers...

Section d. (was c.) The fees set forth above shall not be prorated and shall be due in full for any portion of a season.

Section VII Season. Change on the public way to on public property in the first sentence.

Section x. Design Requirements Part b. add particularly in the line of travel in the first sentence.

Section c. The set up of the outdoor dining shall not interfere with existing pedestrian crosswalks. Any outdoor dining area adjacent to a crosswalk shall require that the crosswalk be lit and/or another method to improve visibility in the evening to aid pedestrians and drivers. (All new)

Councilor Watson-Felt asks about the word "interfering", does this mean anything beyond the standard clearance around crosswalks. Ms Rennard says it does not.

Section XII Removal of Area. If an approved licensee intends to remove their outdoor dining furnishings prior to the end date of the season, the licensee shall notify the City's Licensing Board no less than 10 days prior to removing the dining furnishings. Also, if the licensee plans to close its business for more than 30 days within the season, they must immediately notify the Licensing Board. Furnishings must be removed from the outdoor dining area at the end of the season unless permitted in writing by the City. Any furnishings left on public property following the end of the seasons may be deemed abandoned and the City may remove and store it at the owner's expense. The City shall make every attempt to notify the licensee 48 hours prior to such removal unless public safety is a concern.

Councilor McCarthy asks how we charge the few restaurants that do not remove their furnishings. For example, Brothers Restaurant. Ms Rennard states that they should be removed. Councilor McCarthy asks if there is an extended permit for those who want to keep their outdoor dining through the winter, since the formula is based on a season. Ms Rennard explains that the owner would need to get written approval from the Council to continue to use the spaces. The fees are based on 6 months, and the extended permit would use the same formula.

Councilor Watson-Felt asks for a violation fee if furnishings remain on the street. She asks for a daily rate for every day furnishings remain on the street or sidewalk after the end of the season. Councilor Morsillo wants to clarify if the City has not removed their safety barriers or a city owned structure, it should not be on the owner. Ms Rennard will write up a new amendment to charge a daily rate for the violation which will be ready for the Council meeting.

Councilor McCarthy asks if owners can put out tables and chairs on bump-outs or sidewalk space (not needing Jersey barriers) out of season during a warm week. Can they just do it, or is there a process? Ms Rennard states that the SRA has not historically charged a fee for that. They will continue that discussion in the SRA.

Section XIII Maintenance. Licensees are required to pick up debris and clean the designated dining area at the end of each business day. In addition, plates with uneaten food must be promptly removed from outdoor dining areas to prevent rodent issues.

Councilor Cohen moves that we accept all amendments including the new one being written by Ms Rennard. Seconded by Councilor Varela. The motion passes 4-0

Councilor Cohen moves that we refer the order as amended to the full council with a positive recommendation. Seconded by Councilor Varela. The motion passes 4-0.

Items to Carry Forward.

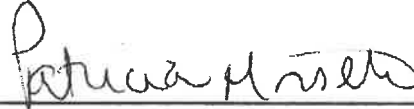
#598 Councilor Morsillo suggests that we not carry this forward, and instead do the work to submit something that is clean. The committee agrees to discharge. Motion made by Councilor Cohen to **discharge**, seconded by Councilor Varela. Motion carries 4-0.

#462 Councilor Morsillo explains that this is a very sensitive issue, which Ray Jodoin is working on to submit a policy about clearing items left on graves, that makes sense to the families involved. Motion made by Councilor Varela to **carry forward**, seconded by Councilor Cohen. Motion carries 4-0

#163 Councilor Cohen moves to **discharge**, seconded by Councilor Varela. Motion carries 4-0.

#437 Councilor Prosniowski moves to **carry forward**, seconded by Councilor Cohen. Motion carries 4-0.

On the motion of C. Varela the meeting adjourned at 6:49P.M.

A handwritten signature in dark ink, appearing to read "Patricia Morsillo", is written over a horizontal line.

(Chairperson)