

Land Use and Development Code Amendment: Outdoor Dining

**Town of Gorham
Planning Board Meeting
July 11, 2022**

ITEM 2 - Land Use and Development Code – Public Hearing: – Outdoor Dining– a proposed amendment to the Land Use and Development Code to adopt the Outdoor Dining Ordinance Amendments.

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AMENDMENT TRACKING

DESCRIPTION	COMMENTS	STATUS
Town Council Meeting	The Town Council forwarded the item to the Planning Board for a public hearing and recommendations. (7 ayes)	April 5, 2022
Planning Board - Discussion	Discusses and referred to the Planning Board Ordinance Committee	May 2, 2022
Planning Board – Ordinance Committee	The item was discussed and forward by the Planning Board member to the next available meeting for a public hearing.	May 16, 2022
Planning Board – Ordinance Committee	The item was inadvertently left on the agenda but not discussed due to time limitations.	June 13, 2022
Planning Board - Public Hearing		July 11, 2022

The Planning Board refers to staff notes during the review process; however, it shall be noted that staff recommendations are noncommittal and all final decisions are those of the Planning Board and not Town Staff.

Memo completed by Carol Eyerman, Town Planner

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1. Overview

The PLBD Ordinance Committee members forward the proposed zoning amendment as written on for Public Hearing by the Planning Board.

In response to the 2020 Coronavirus pandemic, the Town of Gorham adopted a temporary Outdoor Dining Policy to encourage and create public dining options available under the current circumstances. The Policy does not require obtaining additional use permits from the Town.

The Council wanted to allow for the temporary outdoor dining to continue to occur and requested staff draft an ordinance to allow it to continue. Below is the draft Outdoor Dining ordinance amendment.

Proposed Amendment:

Below are those draft amendments for the Board's review.

Town Council additions are underlined; deletions are ~~struck out~~

Chapter 2 General Standards of Performance

Section 2-18 – Outdoor Dining

1. Outdoor dining components must allow safe passage of pedestrian traffic. A continuous, unobstructed sidewalk passage of four (4) feet from the outer boundary of the seating area to the curb must be maintained. If the sidewalk passage is not straight due to existing obstacles, then additional width may be required. The Fire Department shall review the plan to see if four (4) feet is adequate for sidewalk maintained width.
2. Parking spaces may be converted for outdoor dining. Up to thirty three percent (33%) of the existing on-site parking spaces may be utilized if off-site or on-street parking is available within 0.25 miles or 1,320 feet of the front door to the restaurant. For existing businesses, this shall be reviewed by staff as a de minimis change to the existing site plan.
3. Request for the use of adjacent on-street parking spaces or right-of-way for outdoor dining installations requires Town Manager and if applicable, Maine DOT review and approval.
4. Egress must be maintained free of obstruction.
5. Permanent fixtures, such as awnings, may require a building permit.
6. Umbrellas do not require a permit. Umbrellas must be secured and maintain height clearance for sidewalk passage. Umbrellas may have embroidered or screen-printed logos advertising products.
7. Umbrellas and awnings must be kept in good condition without having tears, holes, extensively faded, and/or in a state of disrepair.
8. Fencing and barriers do not require a permit. Stanchions and ropes are encouraged. If barriers such as fencing are proposed, they must be free-standing, shall not exceed 42” in height and may not include commercial signage. Physical attachments to a building are not allowed. Sectional fencing is allowed with a high degree of visual transparency (at least 50% open).
9. Temporary tents or structures may be used. Building permits for temporary structures are required.
10. The applicant/owner is responsible for keeping the outdoor seating area clean.

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11. No food shall be prepared in the designated outdoor dining area, unless the proper State permit is obtained.
12. Music may be played. However, the standards of Chapter 2 Section 2-1 Noise Abatement and Special Amusement Ordinance shall apply.
13. Flowers, planters, and exterior string lighting is allowed. Lights may not be blinking, running, or otherwise activated.

Chapter 1 Zoning Ordinance Section 1-9 Subsection 2 E. Performance Standards

13. Lighting

k) The use of exterior string lighting ~~shall be prohibited except as part of a seasonal holiday display~~ is allowed only when associated with restaurant outdoor dining. Lights may not be blinking, running, or otherwise activated.

Chapter 1 Zoning Ordinance Section 1-10 Subsection 2 E. Performance Standards

13. Lighting

m) The use of exterior string lighting ~~shall be prohibited except as part of a seasonal holiday display~~ is allowed only when associated with restaurant outdoor dining. Lights may not be blinking, running, or otherwise activated.

Chapter 2 Performance Standards SECTION 2-3 – SIGNS

D. PROHIBITED SIGNS, DISPLAYS, AND RELATED MATERIALS

g) Strings of Lights or Lighted Tubing: Strings of lights or lighted tubing that outlines a sign or a building or its major features such as roof lines, windows, or doors or that are used as an advertising feature to draw attention to the premises except for temporary holiday lighting, ~~and decorations,~~ or those allowed for restaurant outdoor dining.

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GORHAM PLANNING BOARD
ORDINANCE COMMITTEE WORKSHOP
MAY 16, 2022
7:00 P.M.

WORKSHOP NOTES

**COMMITTEE MEMBERS PRESENT:
SEVEN SIEGEL**

**STAFF MEMBERS PRESENT:
THOMAS POIRIER, DIRECTOR OF COMMUNITY PLANNING
CAROL EYERMAN, PLANNING DIRECTOR**

**MEMBERS OF THE PUBLIC:
TREASURER OF THE CONGREGATIONAL CHURCH**

AGENDA

- 1. Discussion – Land Use and Development Code Amendment – Outdoor Dining** – a proposed amendment to the Land Use and Development Code to make certain COVID 19 exemptions permanent in relation to outdoor dining.

Ms. Eyerman said that staff had prepared a temporary policy that was followed during COVID to allow restaurants to encourage and create outdoor dining because there was nothing in the ordinance to allow it. This policy was given to the restaurants so they would know what would be permitted and did not require additional use permits from the Town. Now that COVID is better managed, the Council would like to codify some of the things that were being allowed, which meant a change in the ordinance.

Changes are proposed in Chapter 2 General Standards of Performance, to include converting parking spaces for outdoor dining, a continuous unobstructed sidewalk passage of 4 feet from the existing seating area to the curb, and some permanent fixtures such as awnings requiring a building permit. Umbrellas do not require a permit and must be kept in good repair. Fencing and barriers are allowed, as well as flowers, planters and exterior string lighting, but lights cannot be blinking, running or otherwise activated.

Performance standards regarding string lighting have also been added to Chapter 1, Sections 1-9 and 1-10, as well as Chapter 2, Section 2-3, SIGNS.

Mr. Poirier told Mr. Siegel that the use of astro turf is not regulated in the proposed amendment. Mr. Siegel said he does not believe the ordinance should limit the utilization of on-site parking to up to 25% of existing on-site; rather, he believes that each restaurant should be able to use however much of its parking it wants. Mr. Poirier replied said that at this time he would recommend going with the percentage in the proposed ordinance to avoid the impression of being too lenient; he would not recommend going 100%, but suggested perhaps one-third.

The group discussed various restaurants and their current parking to determine what additional parking scenarios could be achieved with the 25% figure. Ms. Eyerman recommended that a study be made of

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existing parking spaces to determine how many would be impacted by the 25% parking to allow outside dining. Mr. Poirier pointed out that there is no parking shortage in the Village, but mentioned the constraints of shared parking and ease/safety of pedestrian walk-ability.

The Congregational Church Treasurer said they charge local restaurants \$200 for parking in the Church lot.

Mr. Siegel, Mr. Poirier and Ms. Eyerman concurred that the item can be placed on the next Planning Board agenda for public hearing.

PROPOSED MOTIONS:

Move to recommended Town Council adoption of the Zoning Amendment to allow for Outdoor Dining to Land Use and Development Code under sections 1-9, 1-10, 2-3, and 2-18 as drafted by Town Council (and as amended by the Planning Board).