

Land Use and Development Code Amendment: Outdoor Dining

**Town of Gorham
Planning Board Meeting
June 13, 2022**

ITEM 2 - Land Use and Development Code – Discussion: – 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		June 13, 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

Land Use and Development Code Amendment: Outdoor Dining

1. Overview

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 Town Council's Ordinance Committee requested staff prepare draft ordinance amendments to more permanently allow outdoor dining options in such a way that permits for creative design, but that do not encroach upon public health and safety.

The Town Council's Ordinance Committee provided feedback and voted on March 15, 2022 to send the draft ordinance to the full Council. In answer to a question about what affect this would have on the Mobile Vending Units Ordinance section, we offer the following excerpt from that section: "The Mobile Vending Unit shall be prohibited from locating in the rights-of-way for Town and State roads, including on-street parking spaces, or Town sidewalks." This section appears to prohibit permanent seating capacity for outdoor dining opportunities in relationship to mobile vending units only.

The Council voted in April 2022 to send the draft ordinance to the Planning Board for its review.

Proposed Amendment:

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

Additions are underlined; deletions are ~~struck out~~

Chapter 2 General Standards of Performance

Section 2-18

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.

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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.
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

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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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PROPOSED MOTIONS:

Move to send the proposed Amendments for Outdoor Dining to the Planning Board's (Ordinance Subcommittee or Comprehensive Plan Implementation Sub- Committee) for review and recommendation.

Or

Move to send the proposed Amendments for Outdoor Dining to a full Planning Board workshop.