

**MINUTES OF PUBLIC HEARING  
HELD BY THE PLANNING AND ZONING COMMISSION  
OCTOBER 3, 2022**

**MEMBERS PRESENT:**

In Person: Eric Prause, Chairman  
Patrick Kennedy, Vice Chairman  
Teresa Ike

Electronically: Michael Stebe, Secretary  
Nicole Clemons

**ALTERNATES PRESENT:**

In Person: Bonnie Potocki  
Carlos Jusem

**ABSENT:**

Yamuna Menon

**ALSO PRESENT:**

In Person: Megan Pilla, Senior Planner  
Gary Anderson, Director of Planning

Electronically: Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The secretary read the legal notice when the call was made.

TOWN OF MANCHESTER PLANNING & ZONING COMMISSION – For revisions to the zoning regulations regarding outdoor dining, at Art. I, Sec. 2; Art. II, Sec. 9.13.01; Art. II, Sec. 11.01.03; Art. II, Sec. 15.01.01; Art. II, Sec. 24.01.05; Art. II, Sec. 26.03.02(B); and Art. IV, Sec. 23. – Zoning Regulation Amendment (REG-0025-2022)

Ms. Megan Pilla, Principal Development Planner, Planning & Economic Development Department, introduced herself. Ms. Pilla provided background for the regulation amendment.

- **2020-2022** – Governor’s executive order(s) allowed municipalities to implement temporary flexibilities for outdoor dining during the pandemic.
- **Feb. 2021** – Manchester PZC adopted revised zoning regulations for sidewalk cafes which made most of the temporary flexibilities permanent for operations that could be defined as “sidewalk cafes.”
- **Feb. 2022** – Manchester PZC held a workshop to discuss an additional zoning regulation amendment to extend those flexibilities to cover operations that could *not* be defined as “sidewalk cafes.”
- **Apr. 2022** – State of CT passed Public Act No. 22-1 with the same intent.

## Public Act No. 22-1 Requirements

*Municipalities must allow outdoor food and beverage service as an accessory use by right:*

- For any permitted food establishment (any place that is properly permitted by the Health, Building and Fire departments to serve food and beverages in town).
- Subject only to administrative site plan review for confirmation of Zoning and Safety Code requirements.
- Provided such accessory use would not result in the expansion of a non-conforming use.

*Outdoor dining must be permitted until at least 9 p.m.*

- Manchester already permits outdoor dining until 10 p.m.

*Outdoor dining must be permitted in the following locations:*

- On sidewalks abutting the principal use (i.e., a restaurant on Main Street can use the sidewalk in front of their building), provided that:
  - ADA accessibility requirements are met.
  - The sidewalk extends the length of the lot upon which the principal use is located and is not less than 4 feet wide.
  - Subject to reasonable conditions imposed by the municipal agency that issues ROW/obstruction permits (Engineering Division).
- On off-street parking spaces associated with the principal use
  - If the restaurant owns a parking lot, they can use some of those parking spaces for outdoor dining, with the exception of handicapped accessible spaces, notwithstanding minimum parking requirements.
- On any yard, lot, court or open space abutting the principal use, provided that:
  - It is located in a zone where food establishments are permitted.
  - ADA accessibility requirements are met.
  - Written authorization from the property owner is provided.

### Art. I, Sec. 2 (Definitions)

Seasonal Outdoor Dining Area – A portion of an eating establishment that is located outdoors temporarily during the permitted months and removed for the remainder of the year, which provides outdoor food and beverage service as an accessory use to the permitted food establishment.

### Art. II, Sec. 9.13 (Accessory Uses in Business Zones)

9.13 Accessory Uses

9.13.01 An accessory use is a use of land or building which is incidental, customary and subordinate to the principal use. The following accessory uses are permitted:

- Seasonal Outdoor Dining Areas in accordance with Art. IV, Sec. 23.

### Art. II, Sec. 11.01.03 (Permitted Uses in Business II Zone)

**Art. II, Sec. 15.01.01(v) (Permitted Uses in Central Business District Zone)**

**Art. II, Sec. 24.01.05 (Permitted Uses in General Business Zone)**

- Sidewalk Cafes deleted from list of permitted primary uses.

**Art. II, Sec. 26.03.02.B (Outdoor Activity Zones in Form-Based Zone)**

- Language adjusted to reflect administrative review process for seasonal outdoor dining areas (as opposed to special exception).

**Art. IV, Sec. 23 (Seasonal Outdoor Dining Areas and Vestibules)**

- The term “sidewalk cafes” is replaced with “seasonal outdoor dining areas” throughout.
- Section reorganized based on the three (3) types of locations where outdoor dining must be permitted:
  - 23.01.01 – Seasonal outdoor dining areas and vestibules on public sidewalk in front of the primary use.
  - 23.01.02 – Seasonal outdoor dining areas on off-street parking spaces.
  - 23.01.03 – Seasonal outdoor dining areas on abutting lot, yard, court or open space.
- Minimum width of unobstructed pedestrian path on sidewalks:
  - Current regulation – 4 feet
  - Proposed regulation – 5 feet

**Art. IV, Sec. 23 (Seasonal Outdoor Dining Areas and Vestibules) –  
CHANGES SINCE PACKET DRAFT**

23.01.01

2. Seasonal outdoor dining areas and vestibules shall provide not less than five (5) contiguous feet of sidewalk clear of obstructions to allow unimpeded pedestrian traffic. At street corner intersections, there shall be a minimum of eight (8) feet of unobstructed sidewalk. Obstructions shall include but not be limited to light poles, traffic signal poles, fire hydrants, utility structures and street signs. Where there is a traffic control signal pedestrian push button, the sidewalk shall remain clear of obstructions between the push button and the associated sidewalk ramp(s). Further, the location of the café or vestibule cannot obstruct the clear sight distance for vehicles nor access or crossings for the disabled.
3. The area of the sidewalk reserved for pedestrian traffic shall consist of concrete with a slip resistant finish only. Any textured pavement, such as brick, cobblestone, bituminous and similar treatment shall not be considered sidewalk for pedestrian traffic. For outdoor dining areas, the operator may leave five (5) feet of sidewalk immediately adjacent to the indoor restaurant and locate the outdoor dining area on textured pavements.

### 23.02.02

Awnings shall be adequately secured, retractable, and meet the provisions of the Manchester Downtown Architectural Guidelines as amended. Umbrellas over tables must be adequately weighted and shall not protrude into the vehicular travel way.

### 23.05.05

The Town reserves the right and power, acting through the general manager or a designee, to prohibit the operation of a seasonal outdoor dining area or vestibule at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. These situations include but are not limited to planned construction work, festivals, parades, marches, road races, repairs to the street or sidewalk, utility repair, snow removal, or any other emergencies occurring in the area. To the extent possible, the permittee shall be given prior written notice of the time period during which the operation of the outdoor dining area will not be permitted by the Town but failure to give notice shall not affect the right and power of the Town to prohibit the outdoor dining area's operation at any particular time.

Ms. Pilla reported that the law requires that the regulation go into effect by January 2023. Based on the definition of the outdoor dining season, the first permits would not start being issued until March 2023.

Ms. Potocki commented that the zones it will apply to are General Business, the Central Business District, and Business II, and Ms. Pilla noted that those are the zones that currently list sidewalk cafés as a permitted primary use. Now that the State legislation requires that it be permitted as an accessory use, it is in any zone where a restaurant is a permitted use.

Regarding the non-slip surfaces being concrete, Ms. Potocki remarked that she can envision areas where there is not concrete, but asphalt. Ms. Pilla stated that she spoke with the Engineering Division about that. If off-street parking spaces or adjacent lots are used, there will be cases where there are asphalt pathways leading to and from them. That particular phrase is in the section that is specific to when the outdoor dining is on the public sidewalk. In that case, the pedestrian path must be on the concrete in order to make it clear that it cannot be in the street or in the on-street parking.

After a question from Mr. Prause, Ms. Pilla reported that this was submitted to the Capitol Region Council of Governments (CRCOG), who had no objections. Their comment was that it is in line with their regional plan and they had no comments. There were no other comments from Staff.

Mr. Prause was interested in the fact that this will increase the State minimum from 4 ft. to 5 ft. The Boston Complete Streets guidelines talk about, typically, a 5 ft. pedestrian zone, which supports two people walking side by side or two wheelchairs passing. If two couples were to pass each other comfortably, it would need to be an 8 ft. area. He questioned whether the Engineering Department weighed in on whether 5 ft. would be a compromise or if they would prefer a larger width to allow couples to pass each other.

Ms. Pilla reported that the Engineering Department specifically did not, and 5 ft. was the most they were requesting. They are thinking about ADA accessibility, i.e., the two wheelchairs passing each other, and the turnaround radius needed for one wheelchair. To clarify, the State does not require it to be 5 ft.; the State requirement is a minimum of 4 ft. The 5 ft. is coming from the Engineering Department and, if the Commission were inclined to keep it at 4 ft., that would be within the State guidelines.

Mr. Prause inquired whether that includes a green space area with potted planters or utilities. He speculated whether it counted 5 ft. as being from the limit of the frontage area being used for the sidewalk services and then there will be utilities with lamp posts and pots, etc.

Ms. Pilla stated that the 5 ft. could actually be either from the edge of the sidewalk pathway to the edge of the street, or from the front of the building to the beginning of the seasonal outdoor dining area. It can be on either side of the dining area as long as it is an unobstructed path that pedestrians can traverse.

Mr. Stebe noted that he would have a hard time going larger than 5 ft. because there are a number of locations that, in the past years, have put a couple of tables out, but the sidewalk made it difficult to make use of this flexibility. Service would have to be standing in the right-of-way in some cases. Downtown Manchester is not like some towns on the other side of the river with a 20 ft. deep sidewalk all the way down the strip. He pondered releasing the seasonal aspect of it and letting the businesses decide when they can economically service outside. He offered that the point of many regulations being worked on is to increase the foot traffic in town and have reasons for people to come into town.

**MOTION:** Mr. Kennedy moved to close the public hearing. Ms. Ike seconded the motion and all members voted in favor.

The Public Hearing was closed at 7:30 P.M.

I certify these minutes were adopted on the following date:

November 7, 2022  
Date

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Eric Prause, Chairman

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.**