



Ruthanne Fuller  
Mayor

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**Barney S. Heath**  
Director

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**MEMORANDUM**

**DATE:** January 21, 2022

**TO:** Councilor Crossley, Chair  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director of Planning and Development  
Jennifer Caira, Deputy Director of Planning and Development  
Devra Bailin, Director of Economic Development

**RE:** **#113-22 Request for Amendment to Zoning Ordinance to allow restaurants for nine months to add outdoor seating**  
HER HONOR THE MAYOR requesting to amend the Zoning Ordinance to insert a new Section 5.1.14 to allow restaurants for nine months to add outdoor seating on their private property regardless of the impact on any applicable parking and seating requirements from April 1, 2022 until January 1, 2023.

**MEETING DATE:** January 24, 2022

**CC:** City Council  
Planning & Development Board  
Jonathan Yeo, Chief Operating Officer  
Jonah Temple, Assistant City Solicitor  
Andrew Lee, Assistant City Solicitor

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**Introduction**

In the spring of 2020, Governor Baker issued an Emergency Order, which provided Massachusetts communities with the flexibility and authority to permit licensing of restaurants to serve customers and have seating in outdoor spaces on adjacent privately owned space, often affiliated parking lots, and temporarily removed as part of the Emergency Order any conflicts with current zoning and/or

special permit conditions. The Emergency Order permitting this activity is set to expire on April 1 of this year.

Last year in Newton, there were four restaurants that provided outdoor dining service in their adjacent parking areas. All of the restaurants contacted by Economic Development Director, Devra Bailin, relayed that the income derived from this additional and often customer preferred seating helped to offset indoor dining losses. As to any reported noise impacts from using outdoor space, Inspectional Services, did not receive any complaints with respect to any of these seating areas

### **Proposed Temporary Extension Sought**

The proposes zoning amendment would seek to temporarily extend the current outdoor private property dining exemption from existing current zoning and special permit requirements for the upcoming April 1 to December 31, 2022 dining season. This extension would permit restaurants to continue to offer outdoor dining to their customers dining during this upcoming uncertain period for diners. A draft zoning amendment to enable this continuance is shown below. Even with this extension, restaurants seeking to use adjacent properties would still need to obtain local and state licensing approvals and abide by their conditions.

### **Proposed Zoning Amendment**

*Insert a new Sec. 5.1.3.G:*

*From April 1, 2022 until and including January 1, 2023, a restaurant shall be allowed to place outdoor seating on its off-street parking stalls without any impact on any applicable parking and seating capacity requirements set forth elsewhere in the this Chapter 30 or any applicable special permit. All such seating shall require prior approval from the Director of Inspectional Services and Director of Planning to ensure the proposed seating will operate appropriately and safely. and all applicable licensing requirements shall still apply.*

### **Next Steps**

In order to potentially meet the start of the official April 1 outdoor dining season, it is requested that their item be assigned a public hearing date of February 28<sup>th</sup>.