

AT THE BAR WITH BOWDITCH

A Legal Blog for the Craft Brewing Community

Good News for Businesses Serving Alcohol in Phase II of the Reopening Plan

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On June 1st, Governor Baker issued an Order under the COVID-19 emergency legislation that will permit alcohol to be served at outdoor spaces for on-premises consumption at breweries and restaurants, as soon as the Governor declares that Phase II of the reopening plan has begun. In conjunction with other adjustments to the sale of beer and wine during the pandemic, this shift toward accommodating the licensed sale of alcohol in ways that had not previously been allowed is encouraging news for breweries trying to pull through the government shutdown.

Under the Order, Phase II businesses—including beer gardens, breweries, wineries, and distilleries that offer table food service prepared on-site—may immediately reopen their physical facilities to workers to prepare for the announcement that the Commonwealth has entered Phase II. When that news breaks, entities licensed to serve alcohol can apply to amend their licenses to begin outdoor table service, whether on a sidewalk, patio, deck, lawn, parking area, or other outdoor space. However, breweries that do not provide food must wait until the start of Phase IV.

The Alcoholic Beverages Control Commission ("ABCC") also issued an Advisory in light of the Governor's Order. It clarified that although businesses must first apply to their respective local licensing authority to have their licenses expanded for outdoor service, the local licensing authority may approve the application without providing advance notice to abutters, thereby streamlining the approval process. Although the local licensing authority must inform the ABCC of all application approvals, the ABCC does not need to separately sign off before amended licenses are issued, further eliminating the administrative red tape that might otherwise hold up this process.

Consistent with the Governor's Order, local government officials have begun the process of easing or lifting restrictions to clear the way for licensed businesses to take advantage of these new rules. On June 1st, Framingham Mayor Yvonne Spicer issued an Order advising that, contrary to normal practices, restaurants in the city would not be required to seek approval from the Planning Board before providing outside or sidewalk dining options, meaning that licensed vendors may accommodate patrons as soon as we enter into Phase II of the reopening plan. Similarly, on June 3rd, Worcester

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City Manager Edward Augustus Jr. signed an Executive Order creating an expedited approval process for applications to extend premises to provide outdoor table service, including the licensed service of alcohol. To the extent other municipalities' bylaws or ordinances contain similar roadblocks, we may soon see a steady stream of related announcements.

Although we are not out of the dark yet, these developments reveal a concerted effort to support local businesses and provide hope that restaurants and breweries alike will be able to get back to business as soon as possible.

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