

OUTDOOR DINING/SEATING

FACT SHEET FOR ACCESSIBILITY CONSIDERATIONS (COVID-19 EDITION)

The primary focus of this guidance is to provide eating establishments with an understanding of the requirements of the rules and regulations of the Massachusetts Architectural Access Board (MAAB), Massachusetts' state building code 521 CMR, that addresses architectural accessibility in the built environment. It will also reference anti-discrimination obligations under the Americans with Disabilities Act (ADA) and its associated Architectural Design Standards (ADADS).

As Massachusetts begins to re-open and restaurants and cafes are establishing outdoor seating areas for customers, entities must consider accessibility obligations that ensure a safe, equitable, and accessible experience for all visitors.

Accessible Route

An accessible route must be provided on site that coincides with the route the general public uses from arrival destination points to the receiving area such as the host station. An accessible route must also connect to accessible seating, restrooms/portable toilets, and to other unique amenities such as a bar, firepit, fans, or heat lamps. The additional listed amenities may also have their own obligations.

Components of an Accessible Route

- **Width of the Accessible Route:**

The minimum width of an accessible route is 36 inches (MAAB 20.4). The use of separation devices such as, bollards, cones, planters, chairs, or chains attached to stands intended to delineate the dining area must not be placed in a way that reduces the width of the accessible route.

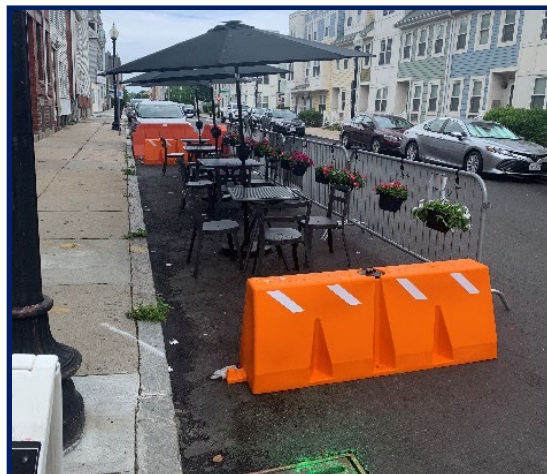
- **Surface:**

The surface of the accessible route must provide a running slope measuring between 0%-5% to remain a walkway. If the slope reaches 5.1% the route will be classified as a ramp and be required to stay under 8.33% (MAAB 20.9). The surface must also be stable, firm, slip resistant (MAAB 20.9), free from changes in level exceeding ½ inch and unbeveled (MAAB 29.2), and free from protruding objects that extend into the accessible route (MAAB 20.6).

Please Note

If you would like to increase the level of accessibility being provided along an accessible route, we suggest increasing the width to 48 inches, allowing for additional maneuvering space.

Additionally, although landscaping is commonly used to be aesthetically pleasing, grass is not considered an accessible route under the regulations. Surfaces such as rocks, sand, and loose gravel are similarly not considered accessible. Businesses are welcome to include these surfaces on their property; however, these must not be used on the accessible route.



Accessible Tables and Seating

As restaurant seating is added or created compliance with MAAB Section 17.0 is required. Routes to all dining areas must be accessible, including outdoor seating areas (MAAB 17.5). A specific number of accessible seating must be provided on an accessible route, must be distributed based on size and location, and must follow detailed dimensions regarding clear floor space and table and counter heights.

Components of Accessible Tables and Seating

- **Seating:**

At least 5%, but not less than one of the tables provided shall be accessible and be on an accessible route (MAAB Section 17.2). Seating at the accessible tables must be movable and not be fixed to the table like a picnic bench or school cafeteria table (MAAB Section 35.1).

Example:

A restaurant provides 45 tables outside in a park and are all similar in their location and seating capacity. Two tables, out of the 45 would need to be accessible and located along an accessible route.

- **Distribution:**

Accessible tables must be distributed by the size and locations of the space being offered. Tables that are provided for large or small groups, in different locations, or for different services would all be required to meet the 5% obligation (MAAB Section 17.2).

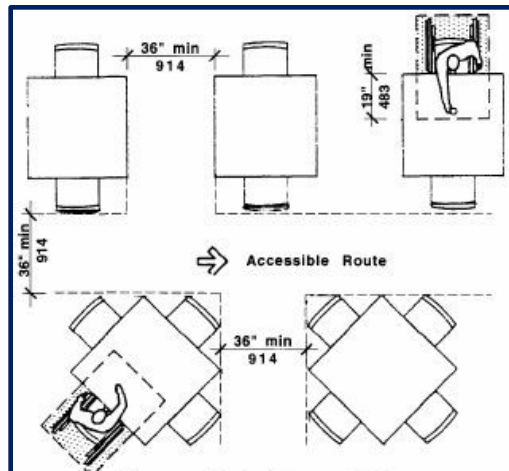
Example:

A restaurant has 62 tables. 10 of the tables offer light dining on the sidewalk while the remaining 52 tables are reserved for fine dining and are located on a closed street. In this scenario, 3 accessible tables would need to be provided. One accessible table would be in the light dining area and one accessible table would need to be provided in the fine dining area. The third accessible table could be provided in either area.

Remember, in this scenario someone may need to transition from the sidewalk to the street, so ensuring the accessible route is critical.

- **Accessible Aisle Between Accessible Tables:**

A 36-inch clearance (access aisle) is required between accessible tables. No seating or any other obstruction shall overlap the access aisle. (MAAB Section 17.2.2).



- **Clear Floor Space at Accessible Tables:**

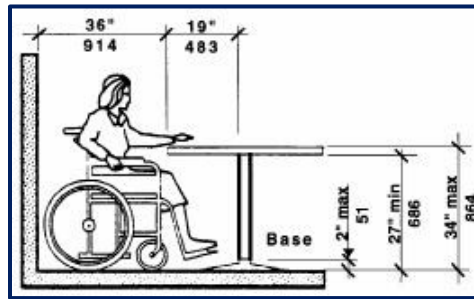
At each accessible table, a clear floor space measuring 36-inches by 48-inches should be provided to allow for an individual to easily set themselves at the table. This space should not overlap with the knee space depth under the table by more than 19-inches (MAAB Section 17.2.3). See graphic below.

- **Knee Clearances at Accessible Tables:**

Knee space of at least 27-inches high, 30-inches wide, and 19-inches deep must be provided to allow for an individual using a mobility device to maneuver and use the table (MAAB Section 17.2.4).

- **Height of Tables and Counters:**

The tops of the accessible tables shall be from 28-inches to 34-inches above the floor or ground (MAAB Section 17.2.5).



Note on Accessible Routes and Utilizing Parklets or On-Street Parking for Dining:

If a restaurant decides to offer outdoor dining using a parklet or on-street parking space, it is important to note that all of the aforementioned laws and regulations continue to apply even though technically the parklet may be in the vehicular lane. Parklets tend to be the size of an on-street parking space and often do not provide sufficient clear width between seating areas and the barrier that protects customers from vehicles. Since these types of areas are typically located on the street, consider how a customer with a disability can access the street from the curb. If no curb cut is provided, it could be extremely difficult for one to get to that location without a mechanism to either reduce or eliminate the change in level. Often businesses will use a temporary or portable ramp; however, in order to use such device, the building owner must apply for and be granted a variance from the MAAB. One cannot install a portable and/or temporary ramp without seeking permission from the MAAB. Since these types of spaces can quickly become a complicated subject, we strongly suggest reaching out to our office directly if you have additional questions or concerns regarding the use of parklets or on-street parking spaces.

Other Access Considerations

There are additional “dining” requirements under the MAAB that involve dining counters without service, counters and bars with service, and food service lines. These additional requirements can be found under MAAB Section 17 – Restaurants.

- If outdoor dining is occurring on a sidewalk, a 36-inch path of travel is required to allow for pedestrians to pass by or access an entrance.
- If portable toilets are provided in multiple locations on the same site, an accessible portable toilet (5%, but not less than 1) should be provided in each location. If portable toilets are all provided in one single location, the 5%, but not less than 1 must be provided (MAAB 30.1.2).
- If parking is affected by the provision of outdoor dining, it is important to remember that accessible parking is based on the number of parking spaces within a particular parking lot. If all parking is removed entirely then there would be no requirement to provide accessible parking. If parking is reduced, modified, or re-located there would be an obligation to provide the appropriate number of accessible parking spaces as required (ADADS 208.2 and/or MAAB 23.2.1).
- Ensure the accessible route is free from Protruding Objects, such as lights, umbrellas, signs, or other fixtures provided (MAAB 20.6)

If any of the above requirements cannot be met as prescribed by the MAAB rules and regulations, a variance would be required from the MAAB. Further information related to that process can be found on the [Massachusetts Architectural Access Board’s website](https://www.mass.gov/orgs/architectural-access-board)¹.

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Effective Communication

The Americans with Disabilities Act requires businesses that are open to the public, such as eating establishments, to communicate effectively with people who have vision, hearing, or speech disabilities to ensure that they can communicate with, receive information from, and convey information to the business.

A business is obligated to provide auxiliary aids and services when necessary to communicate with a person with a disability unless doing so would create an undue burden, which is defined as significant difficulty or expense.

Examples of Auxiliary Aids and Services at a Restaurant:

- Providing a menu in Braille or large print
- Reading menu items to a customer
- Communicating with pen and paper
- Speaking slowly and clearly

We hope you find this fact sheet a useful tool as dining re-opens in Massachusetts. If there are any questions related to this fact sheet, please contact MOD by reaching out to MOD's Community Services Unit by email at either Jeff.Dougan@mass.gov or Jakira.Rogers@mass.gov, or by phone at 617-979-7316.



**Massachusetts Office on Disability
One Ashburton Place, Room 1305
Boston, MA 02108**

Contact MOD

Phone: 617-727-7440

Toll Free: 800-322-2020

Fax: 617-727-0965

Send MOD a Question Online²

Visit MOD on the Web³

Twitter: @MassDisability⁴

Blog: blog.mass.gov/mod⁵

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² <https://www.mass.gov/forms/contact-the-massachusetts-office-on-disability>

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⁶ <https://www.youtube.com/channel/UCoS5kUnBGto7NW-pK24MrDg/>