

56-126. - Outdoor dining.

(a) Generally.

Outdoor dining, adjacent to and a part of an established conventional or carry out restaurant or retail establishment serving prepared food is permitted in all commercial zoning districts, unless otherwise regulated through other zoning districts. Outdoor dining not associated with a conventional restaurant will not serve or provide alcoholic beverages.

(b) Definitions. As used in this section:

Outdoor dining means an area adjacent to and a part of an established conventional or carry out restaurant or retail establishment serving prepared food, providing tables, chairs or benches, where patrons may consume food and beverages.

Outdoor dining permit means an annual permit issued by the city after council approval or administrative approval for outdoor dining has been granted based on the conditions outlined herein.

(c) Permit.

Application for outdoor dining will be made to the city manager. All applications will require the approval of city council. City council will review the petition for consistency with the applicable criteria for the issuance of a permit and may apply conditions as necessary to ensure continued compliance with the criteria.

Prior to the public hearing, the city manager will notify owners of property located within 500 feet of the subject site, informing them of the date, time, place, and reason for the public hearing. Failure to notify all owners of property within 500 feet of the subject site will not render the hearing void.

If approved, a permit for outdoor dining will be issued for a period of one year. The permit may be renewed annually by the city manager if the applicant is in compliance with the conditions.

An annual administrative fee as set forth in appendix A to this Code will be charged for the issuance of an outdoor dining permit. The annual fee will be required in conjunction with an occupational license.

Such permit will not be transferable in any manner. The permit will run only with the business and not the land, in the location and configuration approved. A change in the location will require a new permit application. The grant of a permit does not create a vested right in outdoor dining.

(d) Submittal requirements; criteria for issuance of permit.

A completed application and the following documents will be required. All plans will include a floor plan, location of refuse containers, layout of all tables, chairs and other furniture, parking meters, fire hydrants, street furniture, portable signs, and pedestrian ingress and

egress and dimensioned sketch of the seating area. In addition, photographs, drawings or manufacturers' brochures describing the appearance of the proposed tables, chairs, umbrellas or other objects related to the outdoor dining must be provided.

An outdoor dining permit will be issued after review of the following criteria:

The operation of an outdoor dining area will not be conducted in such a way as to become a public nuisance and the operation of such business will not interfere with the circulation of pedestrian or vehicular traffic on the adjoining streets. The dining will not interfere with access to adjacent tenants of a building, with required fire egress or access by handicapped individuals.

The restaurant owner/operator will be responsible for maintaining the outdoor dining area in a clean and safe condition. All trash and litter will be removed daily. Public sidewalk trash containers cannot be used as a means of disposing of table waste generated by restaurant customers.

Established conventional restaurants with liquor licenses may serve alcoholic beverages in the outdoor dining area in compliance with chapter 6.

Unless otherwise provided in the Code, no additional signage, menu boards or sandwich signs are allowed in the outdoor dining area.

The outdoor dining area's hours of operation will be no greater than that of the principal restaurant.

Parking requirements will be three spaces for every 1,000 square feet of outdoor dining area on private property and five spaces for every 1,000 square feet of outdoor dining area on public property. Outdoor dining in the D Downtown District on public or private property will provide three spaces for every 1,000 square feet. Outdoor dining in the Fifth Avenue South Special Overlay District will not require additional parking. Outdoor dining which is less than 100 square feet in any district is exempt from providing additional parking.

Outdoor dining areas will not intrude upon designated components of egress such as exit discharge, exit discharge being defined as that portion of a means of egress between the termination of an exit and a public way. Outdoor dining areas will not interfere with pedestrian access between tenant spaces.

Outdoor dining areas on public property will not occupy an area more than 25 percent of the total area of the primary restaurant operation.

Outdoor dining areas on public property will be restricted to the length of the sidewalk or public right-of-way immediately fronting the café or restaurant.

For outdoor dining on public property there will be maintained a minimum of a five-foot clear distance or 50 percent of the sidewalk width, whichever is greater, free of all obstructions, including umbrellas, chairs and tables, in order to allow adequate pedestrian movement,

unless previously exempted by the city manager or the city council. The five-foot or 50 percent clear area will be measured and maintained when chairs and tables are occupied. The outdoor dining area will be located adjacent to the building facade, with the five-foot or 50 percent clear pedestrian passage provided between the dining area and the edge of the pavement or landscaping. Umbrellas will maintain seven feet of vertical clearance from the pavement. Tables and chairs will be oriented so that chairs pull out parallel to the sidewalk.

No kitchen or bar service equipment will be located on public property. For outdoor dining on private property all kitchen and bar service equipment used to service the outdoor dining area will be screened from view and placed so as not to impact adjacent property owners.

It is permissible for an outdoor dining establishment to terminate the operation of the outdoor dining on a seasonal basis without the outdoor dining permit being terminated. During such time that the outdoor dining may not be in operation, all tables, chairs and accessories must be stored inside.

No fencing, railings, plantings or other barriers may be installed or erected to delineate the outdoor seating area in the public right-of-way.

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Seating for outdoor dining shall be permitted to encroach the public sidewalks adjacent to the private property leaving a 5-foot clear pedestrian passage between the outdoor dining and the right-of-way landscaping or paved roadway. Outdoor dining shall be regulated per section 56-126.