



FAIRFAX CITY SEASONAL OUTDOOR DINING PILOT PERMIT PROGRAM

Draft Design & Operational Guidelines



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Pilot Program Purpose and Goals



In response to the pandemic, the City established Fairfax City ReConnected Outdoors (FCRO) as an overall strategy for creating safe, cost-effective ways to add outdoor seating, increasing the visibility of businesses, and enhancing the customer experience overall.

Feedback from participants has identified the FCRO program as a success and the City is now creating a seasonal outdoor dining pilot permit program to evaluate regulations and design standards for a comprehensive permanent program. The pilot program will allow restaurants to apply for permits for the use of both public and private space for seasonal outdoor dining after the Declaration of Local Emergency grace period ends in September 2022.

The purpose of this document is to facilitate the creation of seasonal outdoor dining areas that enliven and enhance dining experiences while providing establishments with guidelines in creating safe, attractive, and inviting areas.

The goal of the guidelines is to ensure that the design of seasonal outdoor dining areas meet Fairfax City's objectives in supporting the restaurant community while creating equitable experiences for sustainable growth and development.

The Fairfax City Seasonal Outdoor Dining Design & Operational Guidelines was designed by the Department of Community Development and Planning and the Office of Economic Development.

Permitting and Application Process



The seasonal outdoor dining pilot permit program is permitted through an administrative approval process. Seasonal outdoor dining areas must meet design guidelines prior to approval, issuance of a permit, and use. Any changes or additions to an approved application or existing sidewalk dining area shall require submission of a new application.

Eligibility

Restaurants seeking permitted seasonal outdoor dining areas must have a valid Fairfax City business license and be current on applicable filings and taxes.

Seasonal outdoor dining permits must be renewed each year and are only permitted to be in operation from March 1 through November 30. Permits may be revoked at any time or for any reason, and no rights are afforded to an applicant by virtue of a permit being granted.

Fees and Costs

There is a annual application charge of \$100.00 to cover the cost to the city of processing a permit application.

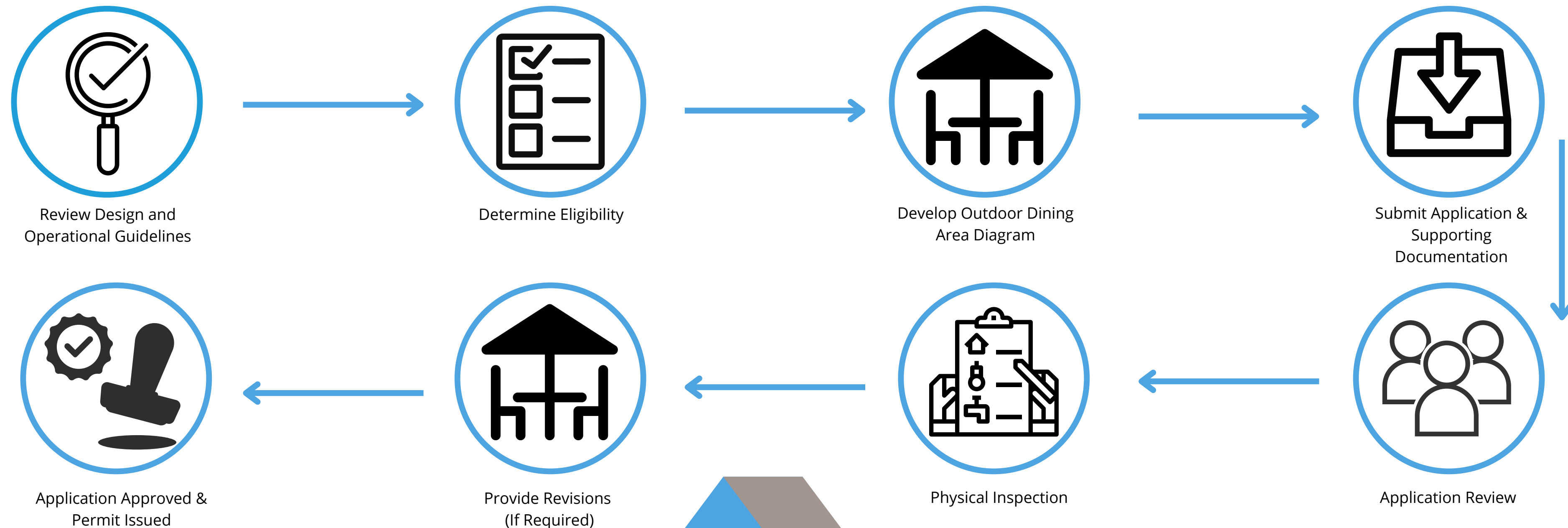
For seasonal outdoor dining areas located in the public right-of-way (ROW), there is also a fee assessed based on the square footage of the ROW area leased. Fees for use of public sidewalk or public ROW shall be ten dollars (\$10.00) per square foot per term.

The fees associated with the Fairfax City Seasonal Outdoor Dining Pilot Permit Program will start on March 1, 2023. Applications can be submitted beginning February 1, 2023 online at fairfaxva.gov/outdoordining or by emailing applications and supporting documentation to outdoordining@fairfaxva.gov.

Permitting and Application Process

Seasonal Outdoor Dining Pilot Permit Application Process

Please follow the below steps to apply for a seasonal outdoor dining pilot permit application. The time to process applications depends on the completeness of the application and the elements in the proposed dining area.



Required Application Materials

Interested establishments may submit completed applications beginning February 1 through electronic submission at fairfaxva.gov/outdoordining or via email. Emailed applications with supporting documentation should be sent to outdoordining@fairfaxva.gov.

Application review is performed by Fairfax City staff.

Applicants must submit the following with the seasonal outdoor dining pilot permit application:

- A site plan showing the proposed seasonal outdoor dining space to scale; including layout of furnishings and furniture, measurements (to buildings, sidewalks, roadways, etc.), and location of physical barriers on existing site plan
- Submit color photos, renderings, or graphics showing the type and materials of furniture, umbrellas and/or planters. If barriers are required to meet design guidelines, submit color photos, renderings, or graphics as well. If product specification sheets are available, it is recommended to include them with the submittal.
- If utilizing private property or parking spaces within a shopping center, written approval with signature from the property manager and/or owner is required.
- For all applicants seeking use of public ROW dining, operators are required to provide proof of commercial general insurance with the City named as additionally insured in the minimum amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) general aggregate. It is also requested that the restaurant provide evidence of liquor liability coverage (if applicable) with a minimum of one million dollars (\$1,000,000.00) per occurrence and proof of workers compensation insurance.

Acceptable Types of Seasonal Outdoor Dining Areas

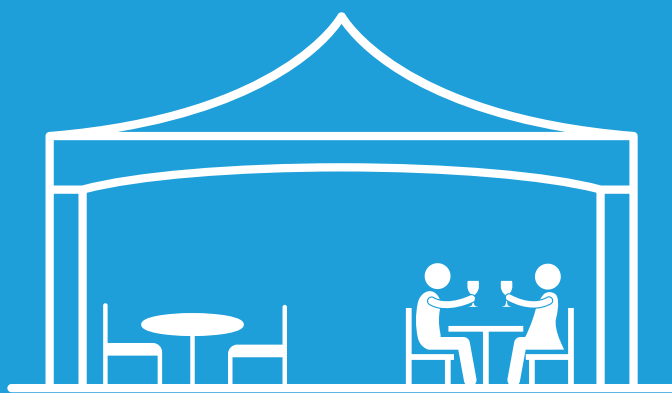
Key Elements

The seasonal outdoor dining pilot permit program will increase opportunities for restaurants to expand indoor dining operations into outdoor dining operations within the public right-of-way (ROW) and on private property.



Public ROW

Allowance of outdoor dining on public property may include oversized sidewalks or multipurpose paths and other public spaces that are adjacent to building frontages.



Private Property

Outdoor seating on private property permitted on any oversized walkways, paved areas near a building entrance, plazas, or parking lots located on private property, including those that are part of a shopping center.



Fire Code and Heating Elements

Dining areas shall maintain a minimum of three 3 feet of clear space at the base of fire hydrants and fire department connections. Applicant to identify any fire hydrants and connections with site plan submission.

A Fire Code Permit through the Office of Code Administration is required for restaurants not previously approved for LP-Gas/Propane usage. Fire Code permits are obtained separately from the seasonal outdoor dining permit program through the Fire Marshal's Office.

The following heating are *permitted*:

- LP-Gas use and storage must be fifty (50) feet from tents, structures, etc.
- LP-Gas distance from structures shall be ten (10) feet .
- LP-Gas heaters that are physically located outside of a tent/structure and provide heat through a duct are permitted.
- Generators must be twenty (20) feet away from a tent. Refueling shall occur at the same distance.
- Electric heaters must be protected from outdoor elements and only utilized inside a tent.
- Electric heaters must have grounded plugs.
- Fire extinguisher must be installed within the tent or structure.
- "No smoking" signs must be posted in proximity of LP-Gas cylinders.

Fire Code and Heating Elements Continued

The following are *prohibited*:

- ✘ Food preparation or outdoor cooking with a grill or grease vapor producing equipment shall not occur inside or within 20 feet of a customer-occupied umbrella, tent, awning, or membrane structure with walls, or single party structure.
- ✘ No LP-Gas can be stored, used, or placed under a tent or structure.
- ✘ LP-Gas may not be used within a tent or structure.
- ✘ Electric heaters cannot be placed outside a tent or structure.
- ✘ Open flame, candles, cooking equipment, and heaters with an exposed flame shall not be used inside or within twenty (20) feet of outdoor structures.

Activities and Entertainment

All noise in outdoor areas between 10:00 pm and 7:00 am are subject to the maximum permissible noise levels as specified in the Zoning Ordinance.

- Non-participatory background music is permitted.
- Noise sources should be positioned to not project toward the ROW.
- A special use permit through the Zoning Office is required for featured/promoted/advertised events.

→ *Outdoor dining and service areas located in side or rear yards adjacent to or across a street from residential districts shall not operate before 9:00 am or after 11:00 pm.*

→ *No sound or audio or video entertainment from outdoor dining and service areas shall be visible or audible before 7:00 am or after 11:00 pm on Fridays and Saturdays, and before 7:00 am or after 10:00 pm Sunday through Thursday.*

Outdoor Spaces and Alcohol

Restaurants must comply with Virginia Alcoholic Beverage Control Authority (VABC) standards for serving alcohol outside of enclosed businesses. Restaurants may not serve alcohol in the outdoor space until they have written approval to use the space from the Authority.

Upon expiration of Executive Order (EO) 51, the Authority permitted any outdoor dining areas previously approved by the Authority while under EO 51 to remain in effect, as well as permit the application and approval for new or additional space subject to terms and conditions of the VABC.

Restaurants should contact the Special Agent in Charge located at the regional VABC office for guidance, required documentation, and additional information.

PUBLIC RIGHT-OF-WAY (ROW)

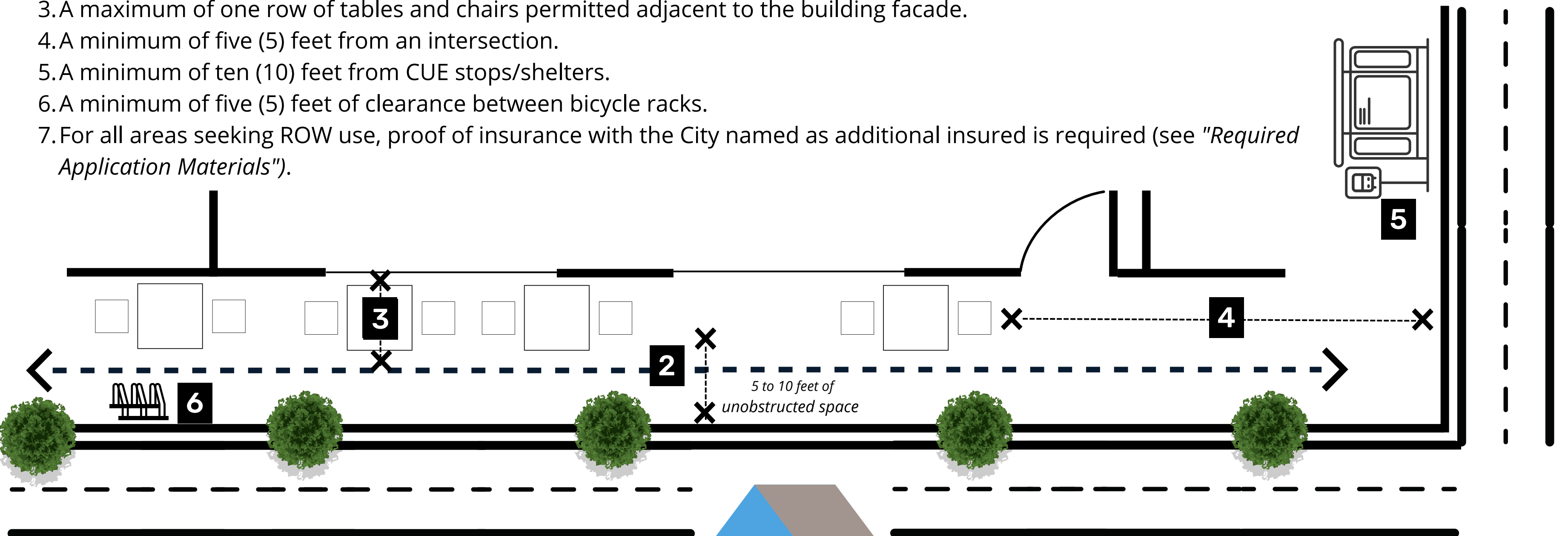
Dining Areas

Public ROW Dining Areas

Seasonal outdoor dining spaces located within the public ROW may include sidewalks, multipurpose paths or other public spaces.

Location

1. On an existing hard surface adjoining a public sidewalk.
2. Retain a minimum of five (5) feet of unobstructed space for sidewalk access and ten (10) feet of space for shared use paths.
3. A maximum of one row of tables and chairs permitted adjacent to the building facade.
4. A minimum of five (5) feet from an intersection.
5. A minimum of ten (10) feet from CUE stops/shelters.
6. A minimum of five (5) feet of clearance between bicycle racks.
7. For all areas seeking ROW use, proof of insurance with the City named as additional insured is required (see *"Required Application Materials"*).



Public ROW Dining Areas

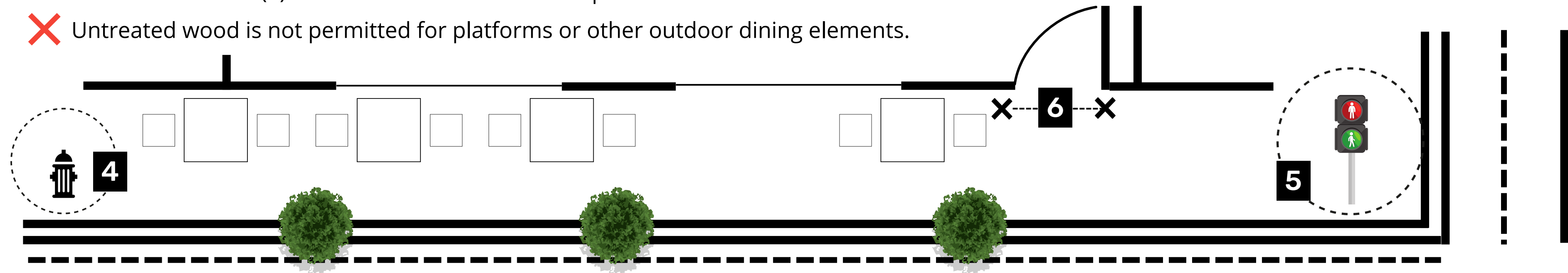


Accessibility

The surface of the sidewalk shall be level. No portion of the sidewalk dining area shall be raised in the style of a deck, platform or other elevated surface, with the exception of when a sidewalk slopes greater than 2% and a platform is needed to meet accessibility requirements. Establishments must comply with the following accessibility requirements:

1. Running slope and cross slope shall not exceed 2%. *For questions or assistance with slope needs, please contact Code Administration.*
2. Raised platforms or sunken areas must be ADA accessible. *For questions or assistance with ADA requirements, please contact Code Administration.*
3. Any platform would require review prior to installation.
4. A minimum of three (3) feet of clear space from fire hydrants and fire department connections.
5. A minimum of four (4) feet of clear space around pedestrian signals.
6. A minimum of five (5) feet access to exit doors and public ROW.

✗ Untreated wood is not permitted for platforms or other outdoor dining elements.



Note: Platforms must be removable to allow access during emergencies or maintenance activities, and must be removed when the outdoor dining permit is not in effect (i.e. December - February). Concrete or other permanent applications are not permitted. All platform materials are subject to the approval of Fairfax City.

Concrete or other permanent applications are not permitted. All platform materials are subject to the approval of Fairfax City.

Design Requirements - Tents and Umbrellas

Establishments may consider the use of tents or umbrellas to provide shade over outdoor dining areas. Structures must be weighted, anchored, or secured to the ground, but cannot be screwed, cut, or drilled into the public ROW. Fairfax City encourages the use of durable, high-quality materials designed specifically for commercial use.

The following are tent and umbrella requirements:

- All materials must be either fire-resistant, flame certified fire-related, or noncombustible.
- Tents and umbrellas must be contained within the sidewalk area and limited to one color.
- Tents with side panels must comply with occupancy load requirements.
- Single membrane structures (examples: igloos, bubbles, or greenhouses) must be under 256 sq ft.
- Outdoor dining accessories cannot interfere with sight lines at intersections (sight triangle requirements as stated in the Public Facilities Manual).
- Use of seasonal structures such as tents and umbrellas may be deemed unsafe and prohibited during severe weather events.

✗ Single membrane structures larger than 256 sq ft.

✗ No smoking is permitted within tents or membrane structures.



Note: All structures will be reviewed on a case-by-case basis. Applicants must include a sketch of the layout along with height and width of structure(s).

Design Requirements - Furniture and Furnishings

All furniture must be made of durable high-quality materials such as finish-grade wood, metal, and composite (example: Trex) material. All furniture must be freestanding. The following are permitted:

- Tables, chairs, umbrellas, heat lamps, menu displays, planters, and barriers are the only acceptable outdoor furniture. Additionally, furniture and furnishings must be clean and free of fading, corrosion, splinters, dents, tears, and chipped paint.
- Chairs may incorporate fabric elements or may be upholstered, but must be maintained in clean condition. For upholstered chairs, water resistant textiles are strongly encouraged.
- Planters must be movable and cannot be higher than 36 inches. Planters shall contain living plants, be well maintained, free of litter or debris, and should not block sight line distances. .
- Lighting must be <1,000 lumens per bulb, downward facing unless string lights, and cannot impair vehicular or pedestrian traffic.
- Barriers must be utilized if dining area is not adjacent to the building facade.



Design Requirements - Furniture and Furnishings Continued

The following are *prohibited*:

- ✘ Furniture must not be bolted, anchored, or otherwise affixed to any sidewalk, ground surface, building, tree, or posts.
- ✘ Plastic furniture and furnishings, storage structures, signs/logos and/or marketing materials.
- ✘ Tying/securing furniture or any other cafe elements to trees, lamp posts, street signs, or hydrants.
- ✘ Trash cans and refuse storage containers may not be located in or near public ROW dining areas.
- ✘ Advertising, lettering, logos, or multiple colors/patterns on umbrellas or tents.
- ✘ Relocating existing street furniture or bike racks.
- ✘ Host stations are not permitted in outdoor dining areas.

PRIVATE PROPERTY

Dining Areas

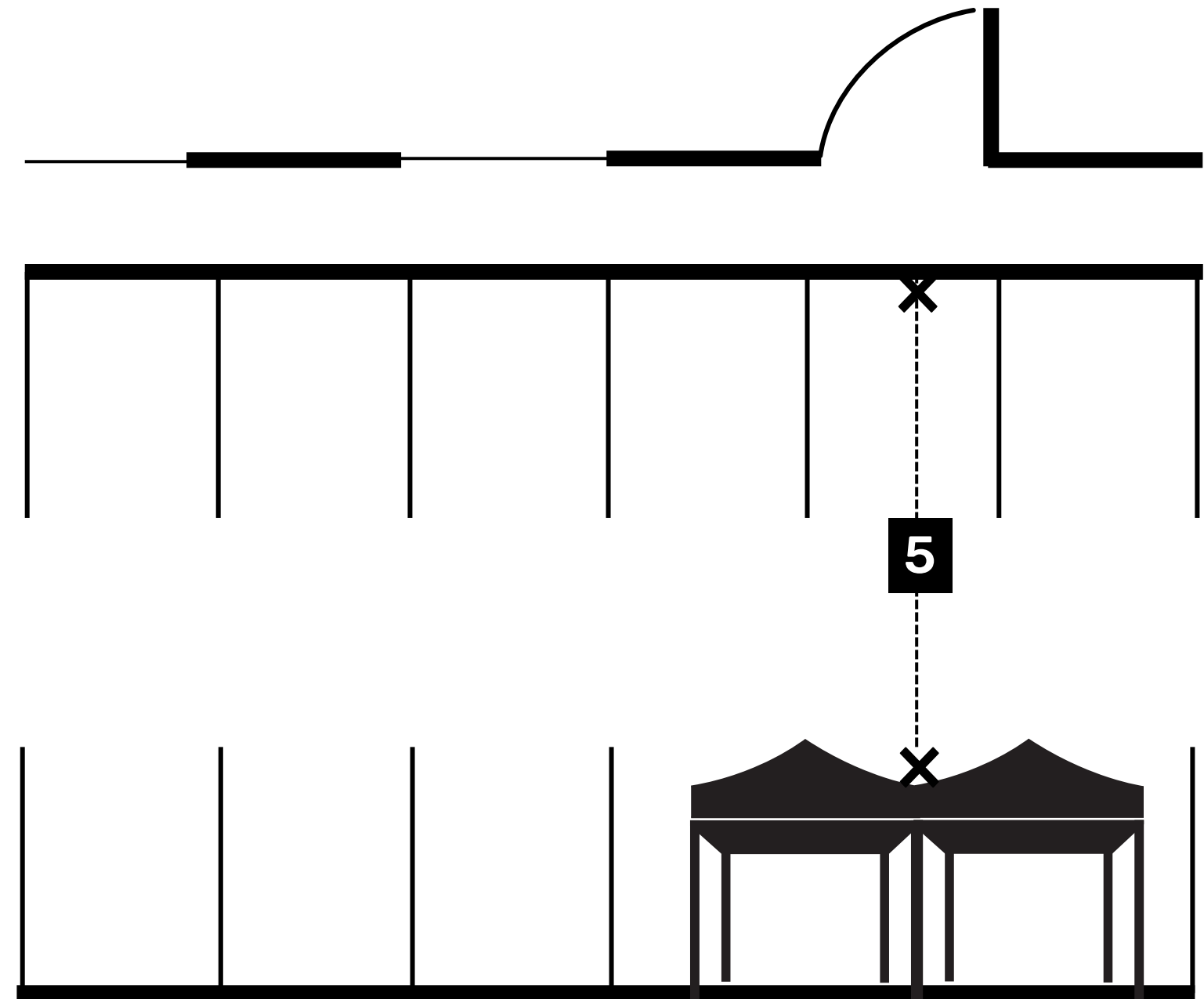
Private Property Dining Areas



Seasonal outdoor dining spaces located within private properties may be located on walkways, paved areas near a building entrance, plazas, or parking lots located on private property, including those that are part of a shopping center.

Location

1. Seasonal outdoor dining on private property is allowed as an accessory use to a lawfully operating restaurant with written approval from the property manager and/or owner.
2. On an existing hard surface (walkway, patio or parking area).
3. No seasonal outdoor dining area may be located on ADA parking spaces or required parking spaces (sites must meet the required minimum needs as specified in the Zoning Ordinance). *Contact Zoning Administration to verify your site minimum parking requirements.*
4. Must maintain a path accessible for patrons to/from and within the outdoor dining area at all times.
5. A minimum of five (5) feet clear path for pedestrian travel entering and exiting the establishment and for walkways.



Private Property Dining Areas

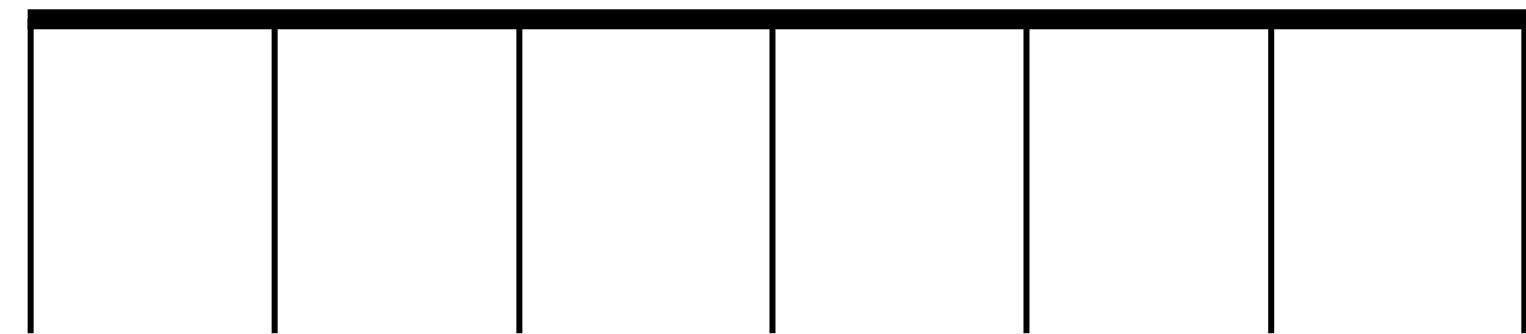


Accessibility

No portion of the dining area shall be raised in the style of a deck, platform or other elevated surface, with the exception of when a slopes greater than 2% and a platform is needed to meet accessibility requirements. Establishments must comply with the following accessibility requirements:

1. Running slope and cross slope that does not exceed 2%.
2. Raised platforms or sunken areas must be ADA accessible.
3. A minimum of three (3) feet of clear space from fire hydrants and fire department connections.
4. Outdoor dining areas must comply with City Building Code and Zoning Ordinance regulations.

- ✗ Untreated wood is not permitted for platforms or other outdoor dining elements.
- ✗ May not block sidewalk entryways/access points.
- ✗ May not obstruct building entrances/exits.



Note: Platforms must be removable to allow access during emergencies or maintenance activities, and must be removed when the outdoor dining permit is not in effect (i.e. December - February). Concrete or other permanent applications are not permitted. All platform materials are subject to the approval of Fairfax City.

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Design Requirements - Tents and Umbrellas

Establishments may consider the use of tents or umbrellas to provide shade over outdoor dining areas. Structures must be weighted, anchored, or secured to the ground, but cannot be screwed, cut, or drilled into property. Fairfax City encourages the use of durable, high-quality materials designed specifically for commercial use.

The following are tent and umbrella requirements:

- Tents and umbrellas must be contained within the outdoor area and limited to one color.
- Tents larger than 900 sq. ft. also require a Fire Prevention Code Permit and a Building Permit
- Multiple tents spaced less than 12 ft. apart with a total area greater than 900 sq. ft. may require a Fire Prevention Code Permit
- Tents with side panels must comply with occupancy load requirements
- All materials must be either fire-resistant, flame certified fire-related, or noncombustible
- Use of seasonal structures such as tents and umbrellas may be deemed unsafe and prohibited during severe weather events

✘ Single membrane structures larger than 256 sq ft.

✘ No smoking is permitted within tents or membrane structures.

Note: All structures will be reviewed on a case-by-case basis. Applicants must include a sketch of the layout along with height and width of structure(s).



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- Chairs may incorporate fabric elements or may be upholstered, but must be maintained in clean condition. For upholstered chairs, water resistant textiles are strongly encouraged.
- Planters must be movable and cannot be higher than 36 inches. Planters shall contain living plants, be well maintained, free of litter or debris, and should not block sight line distances.
- Lighting must be <1,000 lumens per bulb, downward facing unless string lights, and cannot impair vehicular or pedestrian traffic.
- Umbrellas must be contained within the outdoor area and limited to one color.
- Barriers must be utilized if dining area is not adjacent to the building facade.
- Barriers adjacent to drive aisles or parking spaces may be required to have higher collision and control prevention materials. *Contact Code Administration to verify barrier requirements.*



Design Requirements - Furniture and Furnishings Continued

The following are *prohibited*:

- ✘ Furniture must not be bolted, anchored, or otherwise affixed to any sidewalk, ground surface, building, tree, or posts.
- ✘ Plastic furniture and furnishings, storage structures, signs/logos and/or marketing materials.
- ✘ Tying/securing furniture or any other cafe elements to trees, lamp posts, street signs, or hydrants.
- ✘ Trash cans and refuse storage containers may not be located in or near public ROW dining areas.
- ✘ Advertising, lettering, logos, or multiple colors/patterns on umbrellas or tents.
- ✘ Relocating existing street furniture or bike racks.
- ✘ Host stations are not permitted in outdoor dining areas.



Questions? Contact Us

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