

DRAFT Outdoor Dining Related Building Zone Regulation Amendments

January 28, 2022

NEW 7.11 Outdoor Dining

- 1) Purpose and Intent: The purpose of this section is to permit outdoor dining and beverage service, including service of alcoholic liquor or alcoholic beverages, as an accessory use to a food establishment licensed under Connecticut General Statutes Sect. 19a-36i as amended.

Outdoor dining areas contribute to the vibrancy and streetscape of an area, and help to encourage pedestrian activity. However, they must not create a nuisance in the form of loud music, unruly customers or disorderly premises. The design of outdoor dining areas should complement the design of the principal food establishment, while also contributing to the attractiveness of the streetscape.

- 2) Applicability

- a) This section applies to any licensed food establishment, in any zone where service of food and beverage for consumption on the premises is a permitted use.
- b) This section applies to outdoor dining areas that have full food and beverage service from a wait staff, and outdoor dining areas to which customers bring their food purchased from inside the establishment.
- c) Outdoor dining shall be an as-of-right use unless a food establishment is a non-conforming use as defined in Section 8 of these regulations.

- 3) Review and Approval

- a) The Town Plan and Zoning Commission shall review and approve all applications for a new outdoor dining area or modification to an existing outdoor dining area as an Administrative Site Plan approval.
- b) The Office of Community Development, Building Official, Town Engineer, Health Director, Fire Marshal's Office, and Police Department shall review all applications for outdoor dining and provide recommendations to the applicant and Town Plan and Zoning Commission with regard to design, health and safety measures.

- 4) Submission Requirements

- a) Applicants for outdoor dining shall submit a narrative and simplified site plan not necessarily drawn to scale that identifies the following:
 - (i) Location of the proposed outdoor dining area and its proposed barriers relative to the food establishment, public pedestrian areas and parking. If the outdoor dining area, or any portion thereof, will occupy parking area, then parking lot circulation

shall be clearly marked on the plan, and turning radii for emergency vehicle access shall also be identified.

- (ii) All doors used to deliver food to the outdoor dining area; any outdoor service areas, including storage for clean and dirty dishes, condiments, drinking water and similar supplies; and proposed trash receptacles must be identified on the site plan.
- (iii) Specifications for the proposed barriers – see Section 7.11(5) c
- (iv) Business hours
- (v) Plan for inclement weather
- (vi) Alcohol service controls (Transfer of alcohol from preparation area to the patrons).
- (vii) Description of smoking or smoke-free policy. If smoking is allowed, tent or canopy cannot be used. Without tent or canopy, 75% of seats need to be smoke-free.
- (viii) Plan for trash disposal- frequency of emptying, overnight storage of bins
- (ix) Plan for the location, operation and storage of any heat sources and their associated fuel

5) Standards:

- a) Location - Outdoor dining areas may be located in the following locations subject to the conditions of this subsection:
 - (i) Public sidewalks and other pedestrian pathways abutting the area permitted for principal use and on which vehicular access is not allowed provided:
 - a. The pathway is unobstructed for pedestrians and bicyclists.
 - b. The pathway is constructed in compliance with physical accessibility guidelines, as applicable, under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time, and
 - c. The pathway extends for the length of the lot upon which the area permitted for principal use is located,
 - d. The pathway is a minimum four feet in width, not including any area on a street

- (ii) On off-street parking spaces, except handicap accessible spaces, associated with the permitted use, notwithstanding any municipal ordinance or zoning regulation establishing minimum requirements for off-street parking provided:
 - a. For outdoor dining areas providing seating for up to 20% of the food establishment's permitted seats, no additional parking is required
 - b. For outdoor dining areas providing seating for more than 20% of the food establishment's permitted seats, additional parking is required in accordance with Section 9 of these Regulations regarding off-street parking for restaurants.
 - c. Protective barriers around outdoor dining areas must be present. If an outdoor dining area will be used in the evening hours, barriers must have reflective materials.
 - d. Parking lot circulation, including emergency vehicle access shall remain unencumbered by any outdoor dining area.
- (iii) On any lot, yard, sidewalk, court or open space abutting the area permitted for principal use, provided:
 - a. Such lot, yard, sidewalk, court or open space is located in a zoning district where the operation of food establishments is permitted
 - b. Such use is in compliance with any applicable requirements for access or pathways pursuant to physical accessibility guidelines under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time
 - c. The licensee or permittee obtains written authorization to engage in such service from the owner of such lot, yard, sidewalk, court or open space and provides a copy of such authorization to the Office of Community Development.
- b) Hours of Operation – Outdoor dining shall be permitted between the hours of 6:00am and 11:00 p.m with no new diners seated after 10:00 pm and all outdoor dining activities concluded by 11:00 pm.
- c) Design - All related outdoor dining facilities shall conform to the following standards:
 - (i) Protective barriers shall be made of any combination of decorative fencing, stone walls, structured landscaping, and/or building and architectural features (trellises, awnings). Use of jersey barriers or exposed cement block (cinder block) is prohibited. Protective structural elements shall be incorporated to adequately and

suitably provide appropriate protection from traffic and other identifiable hazards for the specific location.

- (ii) The above design features and architectural improvements shall be integrated with site buildings and the physical characteristics of the surrounding neighborhood. Additional structural and landscape screening may be required to buffer adjacent properties and streets from visual, lighting, noise, odor and other potential associated environmental/site impacts as deemed warranted by the Office of Community Development.

d) Cleanliness & Hygiene – Outdoor dining areas shall be cleaned and maintained with removal of trash on a regular basis.

e) Accessory Components

- (i) Associated apparatus - The use of portable umbrellas, heating units and other similar elements for the purpose of weather protection may be permitted provided that:

- (a) They are properly maintained in a neat and good working condition and compliant with all applicable building, fire and health code standards and laws.

- (b) Said features shall be adequately stored when not in use with appropriate containment.

- (c) Said Features shall not have any logos, lettering or images painted or otherwise affixed to them.

- (ii) Lighting - Lighting shall be dark sky compliant, and limited to that level which is necessary to illuminate the outdoor dining area for patrons and staff.

- (iii) Noise – All forms of amplified sound through speakers, TVs, video screens, etc. are prohibited in outdoor dining areas. Non-amplified sound, such as live acoustic music or other noises associated with outdoor dining activities shall not be audible on abutting properties after 9pm.

6.6 Retail Trade

Eating And Drinking Without Drive-In Or Curb Service

Retail Trade – eating and drinking without drive-in or curb service is a permitted special permit use in the Planned Business and Development (PBD) Zone and the Planned Travel (PT) Zone, subject to the requirements of those zones, and other review and approval which may be required by these Regulations and, in addition, the following conditions:

- a. No building shall be erected or altered which is used or is arranged, intended or designed to be used for retail trade - eating and drinking without drive-in or curb service if that service, if that portion of said building or premises actually used or arranged, designed or intended to be used for retail trade - eating and drinking without drive-in or curb service is located
 1. Within one thousand (1,000) feet, measured by a straight line as established by the Town Plan and Zoning Commission, from that portion of any other building or premises actually used or arranged, designed or intended to be used for the same or similar purpose; except that the Town Plan and Zoning Commission may, in its discretion and for good cause in the case of a comprehensive Plan of Development with due consideration to vehicular traffic movement, pedestrian safety and overall site layout, waive this particular distance requirement.
- b. Food service shall be primarily to customers seated at tables or at counters within a closed building.
- ~~c. There shall be no window counter service, outdoor seating or eating at or on the premises, except that the Town Plan and Zoning Commission may in its discretion and for good cause in the case of a comprehensive Plan of Development with due consideration for litter, public health, insect pests and overall site considerations, permit an outdoor café with service to customers seated at table only as an accessory use to a retail trade eating and drinking facility.~~
- d. Take-out service or food to be consumed off the premises shall be permitted as an accessory use.