

§ 515-150

Outdoor Cafes, Dining, or Seating Areas.

Outdoor cafes, dining, or seating when incidental or accessory to a permitted use in the GBD (General Business Downtown) District or GB (General Business) District, may be permitted as a special land use provided the following conditions are met:

A. Outdoor cafes, dining, or seating shall be directly adjacent to, and on the same parcel as, the building or tenant space occupied by the principal use that it serves. These outdoor areas are permitted in all yards, though providing site plan application and adhering to the defined setback standards for the underlying district, and pending review and approval from public safety and engineering for compliance with all building and fire safety codes and requirements.

B. Design and Layout Criteria

(1.) Outdoor dining areas shall be separated from parking areas, public rights-of-way and other common areas by a 4 foot tall ornamental fence, in addition to landscaping or other materials acceptable to the Planning Commission, upon review and in compliance with the requirements of Village Public Safety, and in accordance with all current fire and building codes. The fence, screening, and protective barriers shall be designed in a manner that is compatible and complementary to the primary building and adjacent sites.

(2.) When adjacent to a pedestrian walk, a five-foot sidewalk width shall be maintained for pedestrian flow. Further, ingress and egress to these outdoor areas shall comply with ADA standards.

(3.) Carry-out restaurants without indoor seating shall not exceed twelve (12) seats for outdoor dining.

(4.) If alcoholic beverages are to be served, the current Liquor Control Commission Rules and Regulations shall apply. Further, all food preparation shall take place inside the establishment. Proper State, Local, and Health Department licensing and approvals from permitting jurisdictions shall be provided to the Village.

(5.) No music, intercom or other noise shall be permitted that impacts adjacent properties and violates Village noise ordinance.

C. Off-Street Parking. Outdoor dining shall be considered an incidental and accessory use and therefore not included in the parking calculation of required parking spaces under the following conditions:

(1.) The occupant load of the outdoor dining area shall not exceed thirty (30) percent of the interior customer/patron occupant load of the building or tenant space housing the principal permitted use (occupant load to be determined per the building code). If greater than thirty (30) percent, then the outdoor dining area shall be included as part of the floor area and occupant load of the principal use for the purposes of calculating the parking requirement for that use.

D. Lighting for outdoor dining areas shall be noted on the application and shall be shielded downward and away from adjacent properties and rights-of-way. All lighting shall be designed to prevent glare from negatively impacting adjacent properties or rights-of-way. See § 515-90 for specific requirements for site lighting.

E. Hours of Operation. The hours of outdoor dining operation shall be limited to the hours of 10a.m. to 10p.m., or the hours of operation of the principal use, whichever is more restrictive.

F. Temporary/Seasonal Outdoor Cafe, Dining, or Seating. The intent of this provision is to create or increase outdoor cafe, dining, or seating areas for existing restaurants and food service establishments on a temporary or seasonal basis. Temporary/Seasonal Outdoor areas are a permitted use in the GBD and GB District and may be administratively reviewed at the discretion of the Building Department Director/Official or their designee with the following guidance and design criteria:

(1.) Permit required. An annual building permit issued by the Building Department Director/Official or their designee shall be required. A restaurant must submit a permit application and all required documents (including written consent form the property owner/landlord if not the applicant), and applicable fees as determined by the Village of New Haven before the issuance of a permit.

(2.) Permit revocation. A permit may be revoked for cause by the Building Department Director/Official of their designee, if the outdoor dining is creating a nuisance, or for any other violation of law, fire and safety code, or other ordinance.

(3.) Appeals. An appeal of a permit denial or revocation shall be made to Village Council.

(4.) Dates of operation. Permitted temporary/seasonal outdoor seating may operate between April 15th and October 15th. All seating, screening, fencing, or other outdoor dining materials must be removed

and stored when outside of the permitted outdoor dining season, as defined. On-site storage shall be in accordance with building and fire code guidelines, or materials can be held at an offsite facility.

(5.) Required design and landscaping for temporary dining areas shall adhere to the design criteria as provided by this ordinance, and may be waived by the Building Department Director/Official or their designee in specific case consideration where no good purpose would come from following such criteria. Permit applications shall include a sketch plan of the seating area and location, properly scaled and dimensioned, and demonstrating the safety and design features as required by ordinance. Further, the proposed design shall be reviewed for compliance with the requirements of Village Public Safety, and in accordance with all current fire and building codes.

(6.) In the event that the outdoor area is temporarily displacing required parking spaces, up to ten (10) percent of the existing spaces for the building or tenant space housing the permitted use may be displaced to permit the outdoor dining. If the site consists of less than ten (10) total parking spaces, then only 1 parking space may be displaced for this purpose. The outdoor dining area shall be configured to provide safe separation from neighboring parking spaces and drive aisles; protective barriers, and movable planters or decorative fencing shall be used in these instances to define the outdoor dining space and to provide proper screening for the area. Further, adequate clearance for car door swing areas shall be maintained for adjacent parking spaces (Minimum: 3 feet).