

## § 515-150

### **Outdoor Cafes, Dining, or Seating Areas.**

Outdoor cafes, dining, or seating when incidental or accessory to a permitted restaurant, craft beverage production establishment, or any other similar food establishment use in the GBD (General Business Downtown) District or GB (General Business) District, may be permitted provided the following conditions are met:

**A. Siting and Location.** 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 and shall adhere to required setback standards for the underlying district. All applicants who wish to install an outdoor seating area shall submit a site plan, proof of insurance, expressed written consent from landlord/owner (if not the applicant), and will not be permitted without review and approval from the Planning Commission, Village building official, fire department, and engineering for compliance with all regulatory and safety requirements.

### **B. Design and Layout Criteria**

(1.) Outdoor dining areas, not temporary in nature, shall be separated from parking and other common areas by an affixed 3 foot tall ornamental fence, protective barriers (bollards, jersey barriers, or other recommended safety features deemed necessary by Village building and public safety officials), in addition to landscaping or other materials acceptable to the Planning Commission. 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.) Outdoor seating areas may not obstruct any fire equipment, building entrance or exit, area marked or designated for emergency egress or ADA accessibility, or pedestrian passage on any trail or sidewalk.

(3.) All tables, chairs, umbrellas, lighting, and other accessories must be temporary and removable.

(4.) Outdoor heaters are not permitted, nor are any outdoor cooking features and accessories

(5.) Outdoor dining areas must be kept free of trash, debris, and tripping hazards.

(6.) No signs are permitted in the outdoor seating area, nor may they be affixed to any part of the structures that define the outdoor space.

(7.) 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.

(8.) No music, intercom or other noise shall be permitted that impacts adjacent properties and violates Section 515-90.A of the Village noise ordinance.

**C. Off-Street Parking and Outdoor Seating Capacity.** 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. In the case of carry-out or drive-thru restaurant establishments, the outdoor seating area shall not exceed twelve (12) seats for the outdoor dining area.

**D. Lighting.** 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, protective barriers and other outdoor dining materials must be removed and stored off-site outside of the permitted outdoor dining season, as defined.

(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.) 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).

(7.) When the temporary outdoor dining area is located in a parking lot, it may not reduce the number of available parking spaces below the minimum required for the site. If the site consists of less than ten (10) total parking spaces, then only 1 parking space may be displaced for this purpose.

**G. Hold Harmless.** The applicant shall acknowledge that he/she is proceeding at his/her own risk and hereby agrees to assume all responsibility and to hold harmless the Village, its officers, agents, and assigns in connection herewith from any claims, demands, liabilities, losses, causes of action of any nature whatsoever arising out of or in connection with the permit(s) issued or any part thereof, from and against all costs, fees, expenses, liabilities, any orders, judgments, or decrees which may be entered, and from and against all costs for attorneys' fees, expenses and liabilities incurred in the defense of such claim or in the investigation thereof.