

Memorandum



To: Mayor and Town Council
From: Ryan Spitzer
Date: 7/8/2021
Re: Sidewalk Dining Agreement

Overview:

In 2013 the General Assembly adopted legislation (Session Law 2013 – 266 (H 192)) that allowed local governments to enact sidewalk dining ordinances affecting sidewalks located within the ROW of NCDOT highways and streets. When this law was passed and the Town allowed outdoor dining on sidewalks that encroached on NCDOT streets and was supposed to enter into an encroachment agreement with NCDOT and adopt a local ordinance that provided a structure for outdoor dining. The Town never entered in to an agreement or approved an Ordinance. In order to keep outdoor dining we must go through the approval steps.

The Session law said that outdoor dining areas on sidewalks had to be a minimum of 6ft from the travel lane unless parked cars serve as the buffer (how it is downtown). Sidewalks must also allow room for pedestrians to pass by thus usually 10 feet or more wide. The Session Law does require the restaurant operator that wishes to take advantage of the legislation to provide liability insurance that serves to protect both the NCDOT and the local government from liability.

The process for allowing outdoor dining to encroach in the NCDOT right-of-way is:

1. Obtain an approved Agreement
2. Adopt and Outdoor Dining Ordinance
3. Accept Permit Applications from businesses with liability insurance covering NCDOT

Attachments:

Sidewalk Dining Agreement