



# **REGULATIONS TO PERMIT USE OF PUBLIC SPACE FOR OUTDOOR DINING**

**Effective May 15, 2023**

The City of Concord desires to have a vibrant downtown that offers a variety of options for outdoor dining. The following policy allows for the use of sidewalks, bump-outs, City squares, plazas, and non-park properties, and parking spaces for outdoor dining by municipally licensed restaurants.

The “outdoor dining season” shall run from May 1st to October 31st for dining on sidewalks and other public property, and May 1st to October 15th for dining areas located within public parking spaces. “Outdoor Dining” shall mean a designated area on the adjacent public right-of-way or other city property of a retail food establishment or restaurant, and where patrons may sit at tables while consuming food and beverages ordered from and served by a waiter or waitress, or alternatively, purchased from the retail food establishment. Restaurants must secure a City outdoor dining permit. Only restaurants that have received this permit shall be authorized to place tables and chairs on City property. The following conditions shall apply:

## **LOCATIONS ON SIDEWALKS AND BUMP-OUTS**

1. Sidewalk and bump-out tables and chairs shall only be placed in Zones A and C (see attached figure entitled “Sidewalk Zones”).
2. On sidewalks, tables and chairs shall primarily be located along the frontage of the restaurant. The applicant may request to set up additional tables and chairs in front of an immediately abutting property as part of the permit application only after use of his/her establishment’s frontage has been exhausted. Written consent from the owner of any property in front of which the applicant plans to set up tables and chairs on the sidewalk shall be required as part of this application.
3. A restaurant immediately abutting a bump-out, but not necessarily fronting on a bump-out, may request use of Zone C space within the bump-out. If there are two competing applications for that space prior to May 1st, the City shall make every effort to accommodate both users. In instances where a second use applies after May 1<sup>st</sup>, the permit for the bump-out shall be awarded on a first-come, first-served basis.

4. The placement of tables and chairs shall maintain a continuous, minimum 6' wide pedestrian clearance in Zone B considering all other permanent sidewalk fixtures such as light poles, planter boxes, etc.
5. All building entrances shall remain unobstructed.
6. Except when specifically authorized by the City's Health and Licensing Officer, fire hydrants, parking kiosks, bicycle parking stations and public benches shall not be obstructed. A minimum setback of 3' around shall be required.
7. Expanded outdoor dining areas shall be laid out in such a way that they maintain compliance with the requirements of the Americans with Disabilities Act (ADA).
8. Under no circumstance, shall a restaurant's tables and chairs be allowed to extend beyond their immediate abutters' property.

#### **LOCATIONS ON CITY SQUARES, PLAZAS, AND NON-PARK PROPERTIES**

1. On City properties, including, but not limited to, Capital Commons plaza, Eagle Square and Bicentennial Square, tables and chairs shall be primarily located along the frontage of the restaurant where possible. The applicant may request additional space in the squares and plazas only once its frontage is exhausted. It shall be at the City's discretion as to whether to accommodate this request.
2. Tables and chairs shall be placed such that a continuous, minimum 6' wide pedestrian clearance is maintained to any steps, doorways, and access points to and from buildings, alleys or the square itself.
3. A minimum 6' setback from public art, fountains, amphitheater steps, and children play areas shall be maintained at all times.

#### **LOCATIONS IN PUBLIC PARKING SPACES**

1. Primarily only spaces directly within the frontage of the business shall be considered for on-street outdoor dining. An applicant may request additional abutting spaces beyond the frontage, but the awarding of those shall be at the discretion of the City. Written consent from the abutting property owner(s) shall be required.
2. The following on-street parking spaces shall not be available for outdoor dining: Handicapped parking spaces, loading zone spaces, bus stops, law enforcement only parking spaces, or spaces reserved for the State of New Hampshire.
3. No portion of any table, chair or table umbrella shall extend into the vehicle travel way or into available parking spaces, the pedestrian clear zone or the shared bicycle path.
4. All tip-down access points to the sidewalk shall remain unobstructed. No dining shall be permitted within an on-street parking space if it results in an encroachment into a crosswalk.
5. No outdoor dining shall be permitted within 15' of an intersection or 5' of a driveway.
6. All permittees shall be required to accept the installation of City safety barriers to surround the parking spaces that are encumbered by outdoor dining. The City shall retain

the ultimate decision on locations of the safety barriers. No permitted tables and chairs shall be placed on the street until the City's safety barriers are in place. Additionally, permittees are prohibited from painting safety barricades, or otherwise attaching, affixing or placing permanent signage, decorations, or other materials / items onto safety barricades.

7. No outdoor dining shall be permitted in public parking spaces whereby the abutting vehicular travel way would be reduced to less than 12' in width after the installation of the required safety barriers.
8. Construction of platforms shall be permitted within parking space dining areas so as to raise the elevation of said dining areas to be consistent with abutting sidewalks. The design of said platforms shall be reviewed and approved by the City Code Administrator and City Engineer, or their respective designees. Said platforms shall not obstruct stormwater flow, or impede access to public or private utilities or other infrastructure. Construction of said platforms shall comply with applicable building codes and permitting requirements.

#### **FURNITURE:**

1. Outdoor amenities, including restaurant tables, chairs, planters, and any other amenity intended to serve restaurant patrons or delineate an outdoor dining area must meet the City's "Street Furniture Guidelines" (see attached). Picnic tables or tables with attached seating are not permitted.
2. No tents or covers shall be permitted over the outdoor dining space. However, table umbrellas are permitted. If table umbrellas or metal frame barriers with fixed canvas panels are used, they shall be in good condition, of consistent design and high-quality materials. Umbrellas and metal frame barriers with fixed canvas panels cannot be tattered, torn or faded in any manner.
3. No advertising or commercial signage shall be permitted in the outdoor dining area except for pre-printed logos of the dining establishment on umbrellas.
4. No attachments to the pavement shall be permitted.
5. The applicant shall affix and maintain rubber tips to the legs of any table or chairs used on concrete, brick or granite surfaces.
6. All outdoor dining furniture must be removed from sidewalks, bump-outs, City properties, and parking spaces upon conclusion of the outdoor dining season. Furniture that is not removed by applicable deadlines may be subject to removal and disposal at the business owner's cost.

#### **HEALTH AND SAFETY:**

1. Permittee and his/her staff must comply with all applicable local, state and federal laws with respect to the serving of food and alcohol; including the securing of a City food service license for the restaurant.

2. The permittee is responsible for removing trash and regularly cleaning the areas being used for outdoor dining (including the areas where servers traverse between the restaurant and extended tables and chairs). Restaurant patron trash shall only be disposed of in the restaurant's commercial trash containers and not in public trash receptacles.
3. No preparation of food or beverages shall be allowed in outdoor dining areas.
4. It is the Permittee's responsibility to ensure that all movable items within the outdoor dining area are secured against wind or theft. The City accepts no liability for lost, stolen or damaged property.
5. All permitted parking space areas shall be required to accept the installation of City safety barriers to surround the parking spaces that are encumbered by outdoor dining. The City shall retain the ultimate decision on locations of the safety barriers. No tables and chairs shall be placed on the street until this permit is issued and the safety barriers are in place.

#### **WHAT YOU NEED TO PROVIDE THE CITY TO SECURE A PERMIT:**

1. **Application:** A completed Outdoor Dining Permit application with the attachments requested below shall be submitted through the online permitting portal, "Citizen Self Service" available under "Doing Business" on the City of Concord website. Payment for permits may be submitted through this portal, or via mail or in person to the address below:

Health and Licensing Officer  
Code Administration Division  
Attn: Outdoor Dining Permit  
37 Green Street  
Concord, NH 03301

Applications with missing information or lacking required attachments shall be considered incomplete and will not be reviewed.

2. **Dimensioned drawing:** The applicant must provide a dimensioned drawing showing the area(s) being requested for a permit. The drawing must clearly show all physical features within and immediately adjacent to the proposed dining area including bicycle racks, crosswalks, driveways, wheelchair ramps, fire hydrants, trees, poles, etc. The applicant must clearly label the width of the pedestrian clearances as well as the length and width of the area proposed for outdoor dining and demonstrate compliance with all applicable setbacks.
3. **Insurance:** The applicant shall provide proof of general liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, including the City of Concord as an additional insured on a primary and noncontributory basis.



4. **Fee:** Upon receipt and review of the application and supporting materials, the Health and Licensing Officer will confirm the “permitted dining area” and advise the applicant of the applicable fee. The permit shall only be issued upon payment of the full fee.
5. **Questions:** Any questions should be directed to Code Division of the Community Development Department at (603) 225-8580.

## **FEES**

The outdoor dining permit fee shall be assessed as follows:

1. Use of sidewalk, bump-out or City squares, plazas and non-park properties:  
\$3 per square foot of permitted dining area, per season.
2. Use of public parking space (per season): \$1,000 per space, per season.
3. Applicants seeking the use of public parking spaces in addition to sidewalk/bump-out spaces need only submit one application but must show the parking spaces in the dimensioned drawing.
4. Permit fees are refundable on the following pro-rated basis:
  - a. If Permittee ceases outdoor dining and all tables and chairs are removed prior to June 1<sup>st</sup> 30% of applicable permit fee can be refunded upon written request.
  - b. No refunds shall be issued for any permit after June 1<sup>st</sup>.
5. If an applicant wishes to have an Outdoor Dining permit begin only after August 15<sup>th</sup>, the permittee shall only be assessed 50% of the permit fee.

## **CITY’S AUTHORITY**

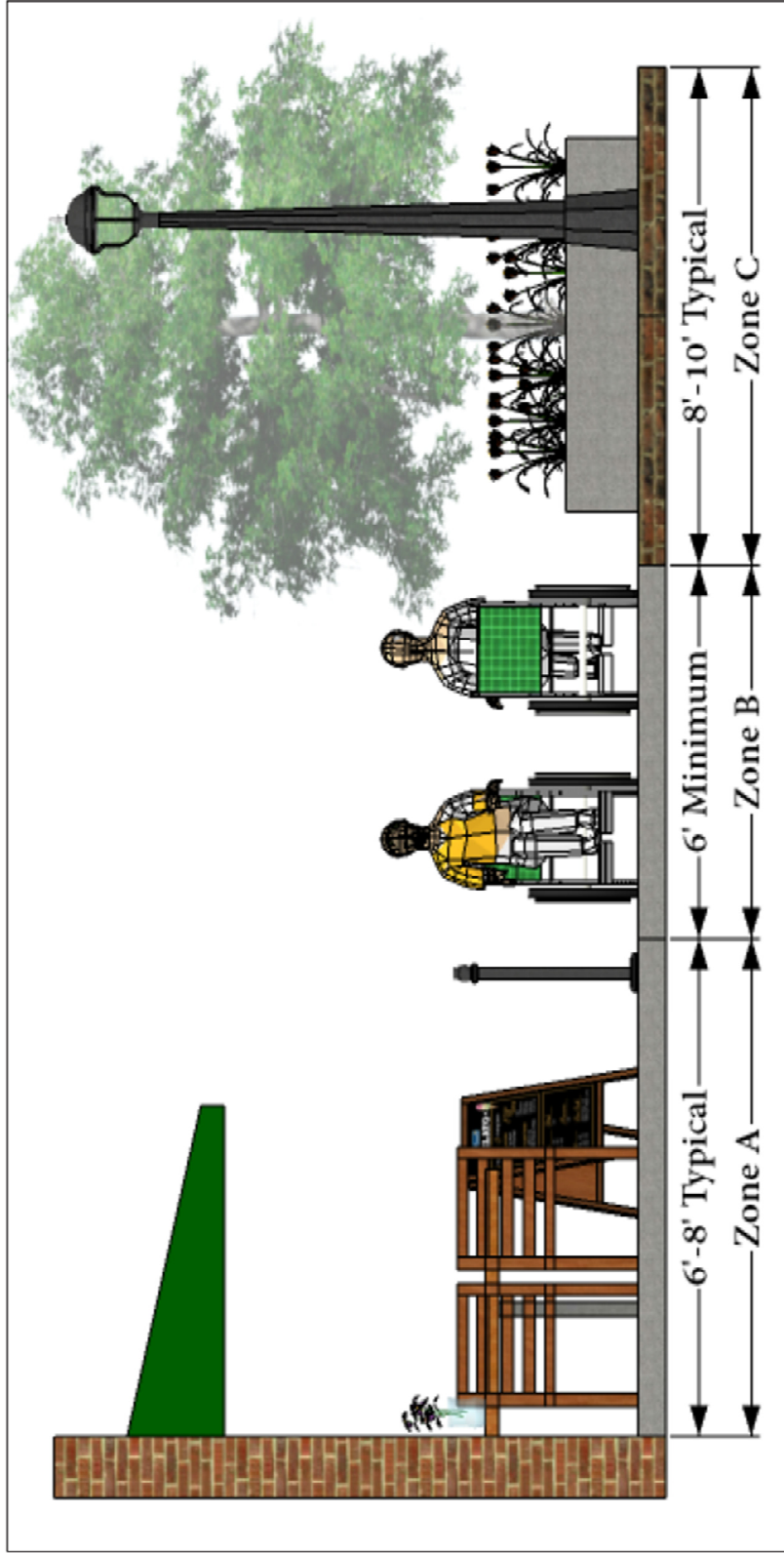
1. The City may terminate or alter use or configuration of outdoor dining areas on the public sidewalk, bump-outs, City properties or within on-street parking spaces in order to facilitate public or private construction projects, road closures associated with special events or festivals, or any other public purpose, including, but not limited to, forecasted severe weather events.
2. The “outdoor dining season” may be permitted on a year-round basis on city-owned land in accordance with an applicable license agreement with no additional fee so long as all furniture and tents are adequately roped, braced and anchored to withstand prevalent weather conditions. The restaurant shall be required to maintain the outdoor dining area safe for public travel and use, which includes ensuring that it is free from snow and ice during operations.
3. The City may suspend, terminate or modify this outdoor dining program at any time.

4. Final approval of any requested location is at the City's discretion. The City is not obligated to issue a permit as requested and may opt to reduce or deny a request if it does not meet the conditions herein.
5. The City reserves the right to revoke any permit at any point for a violation of any of the conditions herein.

**Attachments:**

“Sidewalk Zones”

“Street Furniture Guidelines”



**ZONE A.**  
The area immediately adjacent to the building is Zone A. It can be used for planters, sandwich boards, seating, and outdoor dining amenities, including but not limited to tables, chairs, stanchions, heating elements, and umbrellas.

The width of Zone A can vary, though it typically extends anywhere from 4 to 10 feet from the building. It is limited by the minimum width requirement for Zone B. For most of Main Street, Zone B is defined by the concrete sidewalk sections, which are either 5 or 6 feet in width. The remaining area is Zone A.

**ZONE B: PEDESTRIAN ZONE.**  
Zone B is a linear path intended to comfortably accommodate the movement of pedestrians. It should allow the unimpeded passage of two wheelchairs from opposite directions.

Zone B should be maintained as a pedestrian clear zone a minimum of 6 feet in width where the concrete pavement section is 6 feet, and not less than 5 feet in width where the pavement section is only 5 feet. It should remain unobstructed by signs, outdoor dining, planters, fencing, or any other streetscape amenity.

**ZONE C.**  
The area adjacent to the street edge is Zone C. It accommodates public amenities such as benches, street trees, street lights, bike racks, transit facilities, and other street furniture.

Zone C is defined, for the most part, by the edge of the brick pavers, though it blends in some areas with Zone B where no pavers are utilized. Zone C is typically 8 to 10 feet in width but may narrow to as little as 3 feet in some areas. See the following page for guidelines on the appropriate use of Zone C for outdoor dining and signage.

## Private Use of Zone C



Tables and chairs located in Zone C, clear of the pedestrian clear zone and public amenities.

## Concord, NH - Main Street Design Guide



Planters appropriately placed in Zone C without hindering access to the public bench.



Although Zones are not clearly delineated with paving patterns, dining areas are arranged to avoid encroaching on the pedestrian clear zone or public seating areas.



Pedestrians must walk around the dining area; the pedestrian zone is blocked with a chain, while the alternate route is also blocked with a sandwich board.

### Guidelines

- 5.1 Zone C is typically defined by the brick pavers adjacent to the street edge. Its primary purpose is to accommodate public amenities such as benches, street trees, street lights, bike racks, public art, transit facilities, waste receptacles, wayfinding signage, parking kiosks and other street furniture.
- 5.2 Private business amenities including tables, chairs, planters, and sandwich boards, may be located in Zone C if a 3-foot clear zone can be provided around the public amenities cited above, including future installations of static or performance art, as indicated on the Public Art location map in Appendix A.
- 5.3 No private business amenity may encroach on the minimum 6 foot pedestrian clear zone of Zone B as defined on page 3.
- 5.4 Other than sandwich boards, no private signage is permitted in Zone C. No signage is permitted in City planters or on City benches.
- 5.5 Private amenities located in the right-of-way must obtain a license from the City.



## Outdoor Dining



Outdoor dining is arranged to allow a linear 5 foot wide pedestrian clear zone and provides attractive, quality amenities.



Bright colors provide visual interest and a playful character; seating is also provided for children.



The outdoor dining area is enhanced by attractive fencing, well maintained umbrellas, and features with color and interest added tastefully.



The outdoor dining area blocks the pedestrian clear zone, too many features create visual clutter, and crowding of the dining area detracts from other users.

### Guidelines

- 6.1 Outdoor dining amenities, including tables, chairs, planters, signage, barriers, and any other amenity intended to serve restaurant patrons or delineate an outdoor dining area, may be located in Zones A or C, provided a license has been obtained from the City.
- 6.2 Outdoor dining areas must maintain Zone B as a linear pedestrian clear zone, as defined on page 3, clear of any encroachments.
- 6.3 Outdoor dining amenities should be durable, of quality materials, and designed for outdoor use. Tables, chairs, and umbrellas should be visually appealing and welcoming features of the streetscape.
- 6.4 Picnic tables, including tables with attached seating, are not be permitted in the right of way.
- 6.5 Outdoor dining areas should be well maintained by the business owner. The sidewalk and any affected public amenities should be kept clean and free of food related debris.
- 6.6 To be sensitive to those with sight or mobility impairments, umbrellas may not protrude into the pedestrian clear zone.



## Barriers



Wood and metal combined with vegetated planters creates an attractive barrier.



Sections are stable and consistent, keeping the pedestrian zone clear.



Enclosure utilizes quality materials, creates a sense of privacy with planters, has substantial base plates for stability, and takes up minimal space.



Planters and rods used as stanchions; chain link used; trash receptacles along the barrier; location creates safety concerns without a more substantial barrier.

### Guidelines

- 7.1 Materials used for barriers should be attractively maintained and consistent with the character of the streetscape.
- 7.2 Barriers shall be a minimum of 18 inches and a maximum of 48 inches in height, including vegetation in planters.
- 7.3 With the exception of vegetated planters, the use of materials not specifically designed for fencing such as buckets, flagpoles, newspaper stands and waste receptacles is prohibited.
- 7.4 Other prohibited materials for barriers include chain link fencing, chain link rails, rope, posts and stanchions, snow fencing, untreated wood, plastics, and any other material not consistent with downtown plaza or streetscape character.
- 7.5 Where rigid fence segments are placed end to end to create the appearance of a single fence, segments shall be composed of metal or wood that is finished or painted. Base plates should be flat, sturdy, stable, and removable.