

# City of Salem: 2017 Sidewalk Dining Regulations

## Application Requirements

- Step 1. **Read** the regulations, complete the permit application and submit to the Department of Community Development, 21 South Bruffey Street. Should you have any questions, please contact the office at (540) 375-3036.
- Step 2. **Insurance** - This permit shall be conditioned upon the permittee's maintaining general commercial liability insurance.
- Step 3. **The Application** will be reviewed by the Community Development Department. Within 30 days, the applicant will be notified regarding the approval and conditions of the permit. The applicant will be notified when the approved permit is ready to be obtained from the Community Development Office, 21 South Bruffey Street. A permit fee of \$75 must be paid before the permit is issued.
- Step 4. **Sidewalk dining operations** are also contingent upon approval from the Board of Health. A copy of the restaurant's approval must be attached.
- Step 5. **In the case where alcohol will be served**, final approval of application is contingent upon approval from the Virginia Department of Alcoholic Beverage Control. A copy of the approval must be attached.

## Regulations for Sidewalk Dining Areas

### 1. Usable Space and Allowable Hours of Use

Please submit a drawing showing the dimensions of the dining area, exit paths and the layout of all objects (trees, poles, fire department connections, etc.) within the dining area.

**The dining area shall not reduce the sidewalk area for pedestrians to less than the ADA required 5 feet (60 inches), excluding curb width, between any obstruction (such as trees, light fixtures, trash receptacles, traffic control devices, benches, or street signs) and the outer edge of the sidewalk dining area. Permittee shall frequently monitor the approved area to ensure proper sidewalk clearance is maintained. One or more violations of sidewalk clearance requirements that reduce sidewalk clearance, excluding curb width, to less than 5 feet between obstructions can result in revocation of the permit.** Any sidewalk dining area must include the area that is contiguous to the Permittee's business location. If a Permittee wishes to use space that is in front of an adjoining property owner, the Permittee must obtain consent from the adjoining property owner.

The Permittee may use the dining area from 7:00 a.m. until 3:00 a.m.

**In no case shall the Permittee be allowed to use the sidewalk space for sidewalk dining without a valid permit. Upon expiration of the permit, Permittee is responsible for immediate removal of all objects.**

**2. Term** - Annual permit to run calendar year, January 1 to December 31 of each year.

**3. Application and Permit Fee** - Applications must be submitted 30 days prior to the intended start date to allow sufficient time for staff review and a \$75 permit fee must be paid before the permit will be issued.

**4. General Design** - Please describe in detail and attach photos or drawings of objects which will be placed on the sidewalk or street, including chains, barriers, tables, chairs, planters, and trash containers. The design and style of all furniture, planters, barriers and other objects placed in the right of way shall be architecturally compatible with all buildings adjoining the sidewalk dining area and with other buildings on the street block face. All items shall be similar colors, materials, and design style whenever possible. Do not purchase any items prior to receiving a permit from the Community Development Office. The City reserves the right to approve the style, design, materials and color of all chains, barriers, tables, chairs, planters and trash containers placed on the sidewalk or the street.

- a. Fences, chains, and barriers should be sturdy wrought iron, painted metal or wood, and must meet all International Building and Fire Code sections (widths and the swing of any gate). If the Permittee intends to serve alcohol in the outdoor area, the design of the barrier should also comply with the Virginia Department of Alcoholic Beverage Control's (ABC) regulations. You should contact ABC for more information at 540-562-3604.
- b. Tables and chairs should be made of sturdy metal, wood or fiberglass, or any combination thereof.
- c. Planters should be compatible in terms of design, scale, materials and color with other elements of the sidewalk dining area. They also should be easily removed during periods of non-use.
- d. Trash containers should be compatible in terms of design, materials, and color with other elements of the café and shall only display restaurant identification name. Trash containers can only be located within the dining area.
- e. Serving Station - any serving station should be compatible in terms of design, materials and color with other elements of the outdoor restaurant and should be located within the dining area. The station also should be easily removed during periods of non-use.
- f. **Umbrellas.** If umbrellas are used they may contain a maximum of two colors that are compatible with the tables, chairs and barriers. **The umbrellas must have a minimum of a seven foot sidewalk clearance and must remain within the leased area, including overhead spread.** The size of the umbrellas also must comply with the regulations of the Board of Health for outdoor food preparation. For more information, please contact the Board of Health at 540-387-5530.
- g. If new objects are purchased that were not described in the original application, then the Permittee must submit the description of the new objects for approval.
- h. Any of the items listed above may contain advertising as approved through this permit process. This advertising will not count towards the total allowable signage as allowed by Chapter 66 of The Code of the City of Salem.

#### **5. Rules and Regulations**

The Permittee must comply with all applicable rules, regulations, ordinances, laws or statutes, including the Americans with Disabilities Act and those regulations promulgated or enforced by the Virginia Alcoholic Beverage Control Board and the Board of Health. Sidewalk dining permits shall be revocable with or without cause in the discretion of the City Manager or the City Manager's designee.

#### **6. Repairs**

The City maintains the right to enter the sidewalk dining area at any time to inspect the area, ascertaining compliance with conditions of the permit or making any repairs to the sidewalks or streets. The Permittee shall keep and maintain the sidewalk dining area in good and complete state of repair and condition, except for ordinary wear and tear.

## **7. Environmental Matters**

- a. The Permittee agrees that it will not introduce onto the sidewalk dining area any toxic, hazardous or dangerous materials unless such material is stored, safeguarded, or used in accordance with applicable laws and regulations. If use of such materials becomes necessary, at no time shall any toxic, hazardous or dangerous materials be left unattended, nor be allowed to leave the area of use by spillage, leaks, drips, over-application or other means.
- b. The Permittee shall frequently monitor the area for garbage, trash, refuse and other waste materials. The Permittee shall maintain the sidewalk dining area in a clean and usable state and must protect the right of way from damage. Any food, drink or other items spilled on right of way must be properly cleaned and removed for the safety of pedestrians and for environmental concerns. It is not permissible to sweep, rinse or otherwise move any such waste materials to the street, gutter or any portion of the municipal storm sewer system. Tables, chairs and other objects shall not be stacked or stored outdoors on the public right of way.
- c. The Permittee hereby agrees to use and occupy the sidewalk dining area in a safe and reasonable manner and in accordance with applicable laws.
- d. Adequate lighting must be provided to comply with Commonwealth of Virginia Department of Alcoholic Beverage Control regulations (if applicable) and for pedestrian traffic.
- e. Access to and use of City electricity by Permittee, including, without limitation, use of any outdoor electrical outlet(s), shall be prohibited. Space heaters may be utilized by a Permittee so long as the use and operation of any such heater is in compliance with all applicable building and fire codes and does not present a threat to the health, safety or welfare of the public.
- f. Musical entertainment shall be allowed within any sidewalk dining area. Such activity shall be limited to un-amplified vocal or instrumental performances. Permittee shall be subject to the city's noise regulations, Sec. 30-1, 30-2 and 30-3 of The Code of the City of Salem. Should amplification be requested, please contact the Salem Police Department at (540) 375-3078 for permit application instructions.

## **8. Encroachments**

The Sidewalk Dining Permit is administered through the Encroachment Policy as described in the Handbook to Downtown Salem for reference.