



APPLICATION FOR OUTDOOR DINING

Check off each box to indicate that the required items have been included in your submittal. **Incomplete applications will not be accepted.** Please submit completed application to the Planning Department.

- ☐ Completed and signed Outdoor Dining application, including signed acknowledgement of the Outdoor Dining Regulations (Return pages 1, 2, 3 and 4)
- ☐ Application fee (\$50.00, Payable to the Town of Derry)
- ☐ New applications and renewals with changes to their approved furniture layout and/or materials must submit 6 copies of **complete and stapled** plan sets folded print side out to approximate 8 ½ X 11. Plan sets must include the following items:
 - ☐ Scaled plan depicting existing lot lines and orientation of the building on the lot
 - ☐ Dimensions of the building and the lot
 - ☐ Street location, width, and curbing location
 - ☐ Access points and traffic circulation
 - ☐ Setbacks and dimensions from the sidewalk to building
 - ☐ Location of proposed outdoor dining area and its components:
 - ❖ Total square feet dimension of the dining area
 - ❖ The number and location of tables and chairs, noting the separation distance between the tables and the aisle widths
 - ❖ Location of equipment and accessories, including service station
 - ❖ Location of pedestrian access points (must be a minimum of 44") and sidewalk separation
 - ❖ Location of any ramps, fire hydrants, fire lanes, light poles, natural features, parking space, and trash receptacles
 - ❖ Location of any proposed outdoor sanitary facilities
 - ❖ Location of any proposed outdoor bar
 - ❖ Location and dimension of barriers
 - ❖ Drawings or photos of proposed barriers, umbrellas, chairs, tables, vegetation
- ☐ Certification of liability insurance in the amount of \$2,000,000 naming the Town of Derry as an additional insured (if outdoor dining is located on the public sidewalk)
- ☐ Copy of the following license and permits
 - ❖ Food Service License
 - ❖ State of New Hampshire Liquor License
 - ❖ Certificate of Occupancy from Code Enforcement to include permit inspections of the proposed barriers, signs, ramps, etc., and applicable Life

- Safety Inspections
- ❖ Sign off from Police Department for liquor license
- ❖ Amended Assembly Permit from Fire Prevention, to include Life Safety review

I HAVE READ THE BELOW ORDINANCE AND THE OUTDOOR DESIGN GUIDELINES AND WILL COMPLY WITH SAME.

SIGNATURE

DATE

PRINT SIGNATURE

PHONE AND EMAIL

**ALL APPLICABLE SECTIONS OF THIS APPLICATION MUST BE COMPLETED, AND THE
APPLICATION MUST BE CONSISTENT WITH SUBMITTED MATERIALS**
(type or print)

Address of Restaurant: _____

Name of Restaurant: _____

PARTIES OF INTEREST

Name of Property Owner(s): _____

Complete Address (include zip code): _____

Phone Number (include area code and email): _____

Name of Restaurant Owner: _____

Complete Home Address (include zip code): _____

Phone Number (include area code and email): _____

Name of Applicant - if different from above: _____

Complete Home Address (include zip code): _____

Phone Number (include area code and email): _____

Interest in Property: _____

Application Type

() New Application

() Renewal

For renewals only:

() Furniture layout and materials are the same as previously approved

() Furniture layout and materials are not the same as previously approved

Explain _____

Location (check all that apply)

() Private Property

() Public Property - Sidewalk

]

Occupancy Load

Current occupancy load _____

New Occupancy Load _____

Outdoor Dining Service

() Full Service Outdoor Dining-table service () Outdoor Seating-no table service () Both

Days/Hours of Operation

May not exceed the restaurant's current approval. Outdoor dining is not permitted after 10 pm.

Hours of Operation _____

Outdoor Dining Layout and Furniture

	Location (Private or Public Property)	#	Material	Color
Tables				
Chairs				
Umbrellas				
Pedestrian Barrier				
Trash Receptacles*				
Service Stations				
Heaters*				

**Only permitted on private property*

Pedestrian Access Route

Width (5 foot minimum):_____ Umbrella Height (8 foot minimum):_____

SIGNATURES (FULL LEGAL NAME IS REQUIRED)

Signature of **Property Owner** (Required): _____
Print name: _____
Date: _____ Title: _____

Signature of **Applicant** (Required): _____
Print Name: _____
Date: _____ Title: _____

OUTDOOR DINING REGULATIONS

Effective July 02, 2020

Retain for your records.

§ 134-3 Outdoor Dining

The Town of Derry recognizes the importance of Outdoor Dining to the success and vibrancy of its eating and drinking establishments. The purpose of this Ordinance shall be interpreted in accordance with that intent.

§ 134-4 Required Approvals

The use of sidewalks or other public space for the purpose of outdoor dining service is prohibited without prior written approval of the Town of Derry Town Council.

A. Application Requirements:

- (1.) Permits will be required on an annual basis and will be valid from April 1 to October 15. Permits are not continuous and will expire on October 15 of each year. No permit will be granted prior to April 1.
- (2.) Applications will only be accepted by businesses licensed to serve food to the public.
- (3.) Submission of an 8 ½ x 11 plan showing (see Outdoor Dining Design & Construction Guidelines)
 - (a.) Lot lines, where the building sits on the lot, and dimensions of the building and lot
 - (b.) Street location, width and curbing location
 - (c.) Setback dimensions for sidewalk to building
 - (d.) Location of the proposed outdoor dining room and its components (tables, chairs, barriers, etc.), including dimensions and total outdoor dining area in square feet. The plan should show the number and location of tables, chairs, equipment and accessories, along with pedestrian access points and sidewalk separation. Other features, such as the location of the building, ramps, hydrants, fire lanes, lighting, natural features, parking and relationship to the road (labeled) shall also be included. If areas of the parking lot are to be used for outdoor dining, barriers must be in place to protect the patrons from parking lot traffic. The seating area must be fully enclosed with the exception of the 44" entrance to the outdoor seating area. Proposed outdoor bars shall be noted on the site plan, as shall any proposed outdoor sanitary facilities. See Outdoor Dining Design & Construction Guidelines for additional details to be included.
 - (e.) A drawing, photo or specifications of any required barrier solutions.
 - (f.) A copy of the current food and alcohol license.
 - (g.) Fees
- (4.) Applicants shall indemnify and hold harmless the Town of Derry and shall also provide a certificate of insurance provided by a general liability carrier for the business owner on a primary and non-contributory basis, for a minimum amount of \$1,000,000 per claim and an aggregate of \$2,000,000, both of which shall name the Town of Derry and its employees, officials, agents, and volunteers as an additional insured.
- (5.) The application shall be submitted to the Planning Department for preliminary review. Once deemed complete, the application will be forwarded to the individual departments for review.
- (6.) Individual permits and approvals are required from the following departments prior to the application being forwarded to Town Council/Administrator for final approval.
 - (a.) Code Enforcement/Zoning – permits and inspection of barriers, signs.

- (b.) Police Department – liquor and safety approvals
- (c.) Fire Department – Life Safety review and amendment of Assembly Permit
- (d.) Health Department – amendment to Food License.
- (7.) Applications for outdoor dining occurring on a private lot shall conform to this Ordinance with the exception that the annual permit shall be issued by the Town Administrator or his/her designee in accordance with the stipulations contained in this Ordinance. Permit applications are required for new or proposed expansions of outdoor dining areas. Outdoor dining areas previously approved by the Planning Board as part of site plan review do not require an annual permit.

B. Standard Conditions:

- (1.) Permits are non-transferrable and shall be in effect from date of issuance and shall be renewed annually.
- (2.) All tables, chairs, equipment and accessories must be removed from public way prior to October 16, or at the discretion of Public Works with 24-hour notice.
- (3.) Outdoor dining is permitted during normal business hours, but no later than 10 pm
- (4.) Non-transferrable permit must be posted in public view.
- (5.) Outdoor dining areas must be set back at least five (5) feet from crosswalks, handicap ramps, driveways and intersections.
- (6.) A five (5) foot clearance for pedestrians is required on sidewalks at all times, via clear, unobstructed path. Business owner agrees that they will be solely responsible for compliance with the Americans with Disabilities Act.
- (7.) Outdoor dining area must be contiguous to licensed premises and maintained by business owner.
- (8.) If outdoor cooking is to occur, the applicant shall comply with the applicable Life Safety and Health Code requirements.
- (9.) If alcohol is served, outdoor dining shall be separated from public pedestrian space on adjacent public sidewalk by an enclosure of heavy-duty materials or approved equivalent. Minimum height shall be 30 inches and maximum height shall be 36 inches.
- (10.) Businesses are responsible to all trash and recycling receptacles and must keep area clear of all trash and food debris after close of business.
- (11.) Outdoor dining materials and structures shall not damage sidewalks, curbing, street trees, light poles, trash containers or other public/private property.
- (12.) Umbrellas and canopies are permitted if they do not extend beyond the permitted area.
- (13.) Permanent fixtures such as awnings, require a separate building permit from the building/Code Enforcement Office.
- (14.) Heating devices are permitted with approval of Derry Fire Prevention and Code Enforcement
- (15.) All décor must be fire retardant and meet the following 2015 Life Safety Code for Existing Places of Assembly, §13.4.6.11, Flame Retardant Requirements, specifically §13.4.6.11.1. No décor not approved in site plan is allowed.
- (16.) Only battery-operated candles are permitted.
- (17.) Area must be sufficiently lighted. Extension cords are prohibited.
- (18.) There shall be no smoking or vaping allowed in outdoor dining area.
- (19.) No food, condiments or paper products shall be stored in outdoor dining area.
- (20.) Business owner agrees to comply with all laws, rules and regulations of the NH State Liquor Commission and all other local, state and federal laws. Approval of the Area Service Agreement by the State Liquor Commission is required. Alcoholic beverage violations shall be self-reported to the State Liquor Commission.

- (21.) Dog friendly outdoor dining is permitted; please see Town of Derry Code, Chapter 55, Food Service Establishments for the specific requirements and application guidelines.
- (22.) The Town of Derry shall have the authority to deny, revoke or suspend the permit upon finding that any provision of this article, including the factors enumerated above, or conditions of approval will be or has been violated. The Town of Derry shall give notice of any such action to the permit holder in writing stating the action taken and reason therefore. The action may be effective immediately, but the applicant or permit holder may make a written request for a final hearing before the Town Council, which shall render a final decision concerning the permit. The Director of Public Works, after notice to the permit holder, may suspend the permit temporarily if the public interest requires use of the right-of-way for a public event, construction, repair, or any other purpose.
- (23.) The Town shall be able to issue additional rules and regulations to the ordinance to the extent of their legal authority to do so. Any additional rules and regulations shall be made in furtherance of encouraging pedestrian activity, neighborhood interaction, promoting a better aesthetic appearance, and outdoor dining and creating increased local business through facilitating a more walkable town.
- (24.) The number and location of Outdoor Dining areas shall be at the sole discretion of the Town Council, in the public interest and no entitlement is created by these rules and regulations.

§134-5 Number of Seats

The addition of an outdoor dining room does not grant approval to the business to exponentially increase indoor dining capacity. Compliance with NH RSA 155:18, Places of Assembly Permitting is required.

§ 134-5 Fees

An annual fee of \$50.00 shall be submitted with the application.