

DOWNTOWN OUTDOOR DINING STANDARDS AND CONDITIONS

City of Valparaiso Board of Public Works and Safety

Approved March 28, 2025

Section 1. Purpose.

These Downtown Outdoor Standards and Conditions (“Standards and Conditions”) are established by the City of Valparaiso, Indiana, Board of Public Works and Safety (“Board of Works”) for the following purposes:

- a. To ensure adequate space, safety, and accessibility for pedestrians on the public sidewalk adjacent to Outdoor Dining Areas;
- b. To enhance the vitality and character of Valparaiso’s Central Business District (“CBD”) by promoting Outdoor Dining Areas as social and aesthetic amenities which expand adjacent Establishments outdoors and are complementary to the City’s downtown;
- c. To establish standards and conditions for Outdoor Dining Areas that are effective, efficient, and enforceable for the health, safety, and welfare of the community and its guests.

Section 2. Applicability.

These Standards and Conditions apply to each property located within the CBD within the City of Valparaiso, Indiana (“City”) that provides an Outdoor Dining Area on a city sidewalk. For the sake of efficient review of outlying situations, these Standards and Conditions also apply to similar scenarios elsewhere in the City where an Outdoor Dining Area is proposed on a city sidewalk or patio surface in a City right-of-way and immediately adjacent to a city sidewalk. Desired use of an alleyway or other area that is not similar to the location of a city sidewalk for an Outdoor Dining Area are to be brought to the attention of the Board of Works after coordination with the Planning Department.

Section 3. Definitions.

For the purposes of these Standards and Conditions, the following terms shall have the following definitions:

“Establishment” shall be defined as any brick-and-mortar restaurant, bar, or other food or beverage service located adjacent to a city sidewalk that obtains approval for an Outdoor Dining Area.

“Outdoor Dining Area” shall be defined as any approved outdoor dining related use of the city sidewalk space within the CBD (or elsewhere as described in Section 2) by an Establishment. No Outdoor Dining Area shall exceed the width of the storefront of the Establishment, unless approved per Section 8 (Setback from other Businesses).

“Outdoor Dining Enclosure” shall be defined as the approved products in the approved configuration making up the frame (enclosure) of the Outdoor Dining Area.

“Outdoor Dining Season” shall be defined as the time period between March 1st and ten (10) days before the Thanksgiving holiday of each year, which allows the City Services Public Works Division to do a sweep of the downtown city sidewalks before holiday season begins. The Planning Department, deciding in

concert with City Administration and/or the City Services Public Works Division, may extend or shorten this time at its discretion.

“Unobstructed Pedestrian Way” shall be defined as a path of five feet (5’/60”) minimum width from the approved Outdoor Dining Enclosure to the back of curb that has no privately-owned permanent or temporary fixtures on it (such as menu boards/movable sign boards) and that has no items encroaching on it from an Outdoor Dining Area. (Note: City-owned permanent fixtures such as benches, parking meters, planters may result in a narrowing of the pedestrian route to a minimum of 36” wide for a distance of no more than 48”.)

Section 4. *Authority.*

The City’s Planning Department is authorized to review applications from Establishments seeking to operate Outdoor Dining Areas within the CBD (or elsewhere as described in Section 2), conduct initial approval inspection and periodic inspections, or take enforcement action otherwise (Section 18) to ensure compliance with these Standards and Conditions.

Section 5. *Written Approval Required.*

Establishment owner(s) must obtain written authorization annually. Establishment owner(s) must be mindful that they are borrowing public property, and must ensure that:

- Required pedestrian traffic flow and safety are maintained as directed within these Standards and Conditions;
- Outdoor Dining Areas are maintained to the highest standards as directed within these Standards and Conditions at all times.

No person or corporate entity shall establish, install, maintain or conduct business in an Outdoor Dining Area without first obtaining approval from the authorized City department(s). Failure to obtain appropriate permission will be considered a violation, enforced per Section 18 (Enforcement).

Section 6. *Approval Process.*

Each Establishment seeking approval to operate an Outdoor Dining Area will be required to complete and submit a Downtown Outdoor Dining Application and the required attachments (further detailed in Section 7). The Planning Department will review application and supporting materials for conformance with these Standards and Conditions. In the event that the Planning Department determines an application is incomplete or otherwise not approvable, the applicant will be notified of the reason and a revised application and/or missing materials can be provided. When the Planning Department’s review determines that the submitted application packet is complete and meets these Standards and Conditions, approval will be provided in writing that the Outdoor Dining Area may be prepared. An initial inspection will be made by the Planning Department, and subsequent impromptu inspections will be made throughout the Outdoor Dining Season to ensure compliance is maintained. The Planning Department may delegate application review and/or any inspection to the Building Department.

Section 7. Application Requirements.

Each establishment seeking to operate an Outdoor Dining Area shall complete and submit the City's Downtown Outdoor Dining Application and the required attachments to the Planning Department for review. The application form and instructions are available by contacting the City's Planning Department (planningdepartment@valpo.us or (219) 462-1161). Forms and instructions may also be downloaded from the Outdoor Dining Program section of the Planning Department page of the City's website (www.valpo.us). There is no fee associated with this annual Application. Along with a completed application form, all applicants must submit the following for review by the Planning Department:

- **Site Plan:** First-time applicants, applicants changing Outdoor Dining Area layout (Outdoor Dining Enclosure configuration or configuration of furniture/umbrellas/lighting/etc. within the Outdoor Dining Enclosure), or applicants buying any new product for an Outdoor Dining Area (whether Outdoor Dining Enclosure, Outdoor Dining Area furniture/umbrellas/lighting/etc.) shall provide a site plan/drawing showing the proposed Outdoor Dining Area with measurements (including a representation showing that at least five feet (5'/60") of Unobstructed Public Way will remain for pedestrians and ADA accessibility compliance). The Site Plan must show any City-owned streetscape element obstructions (trees, street lamps, bicycle racks, benches, etc.) with distance measured between each permanent obstruction and nearest element of proposed Outdoor Dining Enclosure.
- **Photos or Drawing of Furniture:** First-time applicants or applicants buying any new product for an Outdoor Dining Area (whether Outdoor Dining Enclosure, Outdoor Dining Area furniture/umbrellas/lighting/etc.) shall provide photos or other graphic representation (including color and material) of Outdoor Dining Enclosure section pieces, furniture, umbrellas, and/or planters, etc. needed for the City to verify that the proposed furniture conforms to these Design Guidelines.
- **Liability Coverage:** Each year, each applicant shall provide proof of liability insurance of not less than One Million Dollars (\$1,000,000.00) per occurrence, further naming the City of Valparaiso as an additional insured party with respect to Outdoor Dining Area. Completion of a Hold Harmless Agreement is also required prior to use of city sidewalk (or otherwise approvable right-of-way location).
- **Inspection:** Each year, each applicant shall be required to schedule an inspection of their proposed Outdoor Dining Area. The inspection shall ensure the Downtown Outdoor Dining Standards and Conditions are satisfied. Subsequent impromptu inspections will be made throughout the Outdoor Dining Season to ensure compliance is maintained.

Contact the Planning Department at planningdepartment@valpo.us, (219) 462-1161, or visit in person at City Hall (166 Lincolnway) with question(s) or request(s) for additional information.

Section 8. *Setback from other Businesses.*

Restaurants need to be mindful of adjoining businesses when using Outdoor Dining Areas, making sure that neighboring businesses remain visible to pedestrians and motorists. An Establishment shall be required to adjust the Outdoor Dining Area layout (Furniture, Accessories, and Fixtures), dimensions, or distance from the property line to ensure that this visibility is maintained.

The limits of an Outdoor Dining Area shall not exceed the width (side-to-side position) of the space occupied by the operating Establishment responsible for the Outdoor Dining Area, unless both Property Owner and Business Owner Approval is provided to the Planning Department for review and authorization.

If an Establishment would like to pursue a wider Outdoor Dining Area by extending in front of a neighboring business's storefront, the Establishment must provide the following:

- **Property Owner Approval Letter:** Applicant shall provide a notarized form letter from the Property Owner of the adjoining building, approving use of city sidewalk area in front of storefront for additional Outdoor Dining Area for the current Outdoor Dining Season. Request form letter from Planning Department.
- **Business Owner Approval Letter:** Applicant shall provide a notarized form letter from the Business Owner of the adjoining business, approving use of sidewalk area in front of storefront for additional Outdoor Dining Area for the current Outdoor Dining Season. Request form letter from Planning Department.
- **Site Plan:** Applicant shall provide an updated site plan/drawing showing the additional Outdoor Dining Area with measurements (refer to Section 7, Site Plan).
- **Inspection:** Applicant shall be required to schedule an inspection with the Planning Department to ensure the extended/additional Outdoor Dining Area satisfies the Standards and Conditions.

Section 9. *Outdoor Dining Enclosures.*

Outdoor Dining Enclosures are needed to prioritize the Unobstructed Pedestrian Way, defining a dedicated public path separate from the Outdoor Dining Area, which is borrowed by an Establishment as a semi-private seasonal space for the Outdoor Dining Season.

Each Establishment is responsible for providing the Outdoor Dining Enclosure for its Outdoor Dining Area. The type and placement of Outdoor Dining Enclosure is required to be approved by the Planning Department. Refer to Section 7 (Application Requirements).

Site planning considerations of Outdoor Dining Enclosures are addressed here, and design of Outdoor Dining Enclosures follows.

- **Unobstructed Pedestrian Way:** The layout of all Outdoor Dining Areas shall account for, at a minimum, the required Unobstructed Pedestrian Way.

“Unobstructed Pedestrian Way” shall be defined as a path of five feet (5’/60”) minimum width from the approved Outdoor Dining Enclosure to the back of curb that has no privately-owned permanent or temporary fixtures on it (such as menu boards/movable sign boards) and that has no items encroaching on it from an Outdoor Dining Area. (Note: City-owned permanent fixtures such as benches, parking meters, planters may result in a narrowing of the pedestrian route to a minimum of 36” wide for a distance of no more than 48”).

No part of an Outdoor Dining Area may extend into the Unobstructed Pedestrian Way.

No portion of a ramp for access for those with accessibility challenges shall be considered part of the required Unobstructed Pedestrian Way.

- **Full Perimeter Enclosure:** Full perimeter Outdoor Dining Enclosures are required for all Outdoor Dining Areas on a city sidewalk (or otherwise approvable right-of-way location per Section 2). The perimeter includes both leading edges and the storefront’s parallel edge. Should access be desired from a city sidewalk, see Access Opening(s) below. One exclusion applies to needing a full perimeter enclosure; that is occupying only three feet (3’) from the building face while maintaining the required Unobstructed Pedestrian Way. (This exclusion typically applies to one bench or one/two small two-person tables each with two chairs free and clear of being problematic for those traversing the city sidewalk.)
- **Access Opening(s):** Any access opening within an Outdoor Dining Enclosure shall measure no less than 48 inches (48”) in width. A wider access opening that distracts from the defined separation between the Unobstructed Public Way and an Outdoor Dining Enclosure is prohibited. Any access opening shall be placed in a location that will not create confusion for visually impaired pedestrians. Generally, an access opening is to be on the street side of Outdoor Dining Enclosure. In cases where the function of the Outdoor Dining Area would be severely compromised, an access opening may be permitted along a non-street side of an Outdoor Dining Enclosure; however, there shall be a clearly defined corner of the Outdoor Dining Enclosure and the access opening shall be no wider than the 48-inch (48”) minimum. The Planning Department will review situations on a case-by-case basis to determine the appropriate course of action. Generally, each Establishment will be permitted one access opening. If an Outdoor Dining Enclosure extends double the length of a standard downtown storefront, an additional access opening may be considered by the Planning Department; however, the stability of the Outdoor Dining Enclosure cannot be compromised by the second access opening.
- **Outdoor Dining Area Maneuvering:** Adequate space must be provided within the Outdoor Dining Enclosure to permit movement of patrons and wait staff. Wait staff shall not serve patrons from beyond the Outdoor Dining Enclosure. An applicant may be required to modify the layout and placement of items in the Outdoor Dining Area at any time if it is determined by City staff that such placement or layout creates a potential hazard or an issue of ADA

accessibility non-compliance. The City reserves the right to move any obstruction that creates a hazard or non-compliance situation.

A variety of design options are available for Outdoor Dining Area Outdoor Dining Enclosures. Outdoor Dining Enclosures must be constructed of metal (aluminum, steel, wrought iron, or similar) and/or wood. Colors shall be black, brown, or other dark neutral color.

Outdoor Dining Enclosures must be constructed for outdoor use and sufficiently sturdy to withstand reasonable variations of weather or wind.

Any Outdoor Dining Enclosure must be freestanding, without any permanent or temporary attachments to city sidewalk(s) or other public infrastructure.

Options for freestanding Outdoor Dining Enclosure styles:

- **Posts with Rails:** Generally defined as vertical support posts (at least eight inches (8”) square) with stable connecting rails. Materials such as wire, coated wire, ropes, chains are not permitted as connecting rails, as they are not stable Outdoor Dining Enclosure materials. See measurement requirements below in this section. The Planning Director may approve posts at least four inches (4”) square if such can be proven to create a sturdy Outdoor Dining Enclosure.
- **Posts with Partition Panels:** Generally defined as vertical support posts (at least eight inches (8”) square) with stable connecting panels including continuous top and bottom edge. See measurement requirements below on this page. Materials such as fabric inserts, rope, and/or chain are not permitted materials within partition panels, as they are not stable Outdoor Dining Enclosure materials. See measurement requirements below in this section. The Planning Director may approve posts at least four inches (4”) square if such can be proven to create a sturdy Outdoor Dining Enclosure.
- **Continuous Planter(s) with Plantings:** This option is addressed in Section 10 (Planters). See measurement requirements below in this section.

Any Outdoor Dining Enclosure style other than those listed above that was permitted for an existing storefront for the 2024 Outdoor Dining Season and remains in good condition will be permitted through the 2025 Outdoor Dining Season. Beginning with the 2026 Outdoor Dining Season, all Outdoor Dining Enclosure styles on a city sidewalk (or otherwise approvable right-of-way location per Section 2) must conform to current standards, with the exception that any Establishment that was permitted an Outdoor Dining Enclosure for the 2024 Outdoor Dining Season that can show proof that said Outdoor Dining Enclosure was purchased no more than two Outdoor Dining Seasons prior may use said Outdoor Dining Enclosure through the 2026 Outdoor Dining Season as well.

Signage (names/words/logos/images/etc.) integrated into Outdoor Dining Enclosure products is not permitted. See Signage subsection within Section 11 (Furniture, Accessories, and Fixtures).

To ensure their effectiveness as pedestrian control devices and their detectability for persons with visual impairments, Outdoor Dining Enclosures shall meet the following **measurement requirements**:

- **Height:** Outdoor Dining Enclosures shall be a minimum of 34 inches (34") and a maximum of 38 inches (38") from the sidewalk surface. This height restriction does not include planters which are integrated into Outdoor Dining Enclosure posts, nor does it include plantings within planters. See Section 10 (Planters).
- **Maximum Distance from Ground:** All Outdoor Dining Enclosures shall be detectable to visually impaired pedestrians who employ a cane for guidance. A bottom rail/continuous detectable surface shall be located within 27 inches (27") of the sidewalk surface.
- **Trip Hazards Prohibited:** The potential of a trip hazard(s) will be reviewed carefully when reviewing new Outdoor Dining Enclosure requests. In time, the downtown will benefit from no longer permitting new sectional fencing with stanchions which were often trip hazards. The continuous planter(s)/wide post options now required will provide a stable column post. Base trim along the bottom of such posts shall be no more than an inch and a half (1.5") beyond the post. Levelers causing a base to be elevated from the city sidewalk service may only be allowed in extremely challenging grade circumstances.

Establishments are required to maintain all Outdoor Dining Enclosures in good visual appearance, without visible fading, dents, rust, corrosion, or chipped or peeling paint. All Outdoor Dining Enclosures shall be maintained in a clean condition at all times.

Section 10. Planters.

Outdoor Dining Enclosure and planter layouts will be reviewed carefully by the Planning Department to ensure ADA accessibility is addressed appropriately. Applicant, please read this entire section if you are contemplating using planters in an Outdoor Dining Area.

Planters can be incorporated into Outdoor Dining Areas in a variety of ways:

- **Planters within or on Posts:** Planters may be physically incorporated into Outdoor Dining Enclosure posts. This planter style is the preferred way to incorporate planters; however, planters may be secured on top of the Outdoor Dining Enclosure posts if done in such a way that planters will not fall from the posts with normal winds and bumps. Planters affixed to the posts must not interfere with the required Unobstructed Pedestrian Way, access openings, or maneuvering within the Outdoor Dining Areas.
- **Narrow Hanging Planters:** Outdoor Dining Enclosures may be of a design that allows narrow planters to hang from Outdoor Dining Enclosure edges if done in such a way that planters will not fall from the posts with normal winds and bumps. This planter style must not interfere with the required Unobstructed Pedestrian Way, access openings, or maneuvering within the Outdoor Dining Areas. See underlined paragraph at the top of Page 8.

- **Planters Only:** Long matching rectangular planters may be placed side by side to create a continuous edge (with the exception of any allowable access opening(s)) to serve as the Outdoor Dining Enclosure. (Clarification: This option will only be approved if the planters create a continuous edge; for instance, there shall be no gaps; therefore, no tapered planters will be allowed.) Review Section 9 for allowable heights of Outdoor Dining Enclosures. Plants in this type of Outdoor Dining Enclosure shall not create a “wall” of plants taller than forty-four (44”).
- **Planters in and around Outdoor Dining Enclosure:** Planters located on the city sidewalk independent of the Outdoor Dining Enclosure may be used inside the Outdoor Dining Enclosure and/or on the non-street edges of the Outdoor Dining Enclosure. Planters may not be located on the street edge(s) of the Outdoor Dining Enclosure, so as to keep the Unobstructed Pedestrian Way clear of extra things to maneuver around/trip over. Please note that planters outside of the Outdoor Dining Enclosure take up a portion of an Establishment’s Outdoor Dining Area width, not extend beyond it.
- **Planters without Outdoor Dining Enclosure:** Planters may be used in situations where no barrier is required (where the Outdoor Dining Area does not extend more than three feet from the building face) in order to provide added visual interest and create a more attractive and welcoming atmosphere. Planters in this case need to be located within three feet from the building face. (Clarification: This scenario is also only available when the required five foot (5’/60”) Unobstructed Pedestrian Way is satisfied.)

Planters must be made for outdoor use and be sufficiently sturdy to withstand reasonable variations of weather or wind.

Planters must be architectural concrete, concrete, commercial grade resin, metal, wood, or terra-cotta. Wood planters must be painted or treated so as to obscure the look of rough or unfinished wood surface.

Nothing (Outdoor Dining Enclosure posts, planters, plants, etc.) may stick out more than four inches (4”) past the Outdoor Dining Enclosure rail edge per ADA guidelines (and that four inches (4”) cannot project into the required five foot (5’/60”) Unobstructed Pedestrian Way).

In order to maintain visibility of street level activity, no planter(s) shall create a “wall” of plants taller than forty-four inches (44”) (measured from the sidewalk surface). Plantings taller than forty-four inches (44”) (measured from the sidewalk surface) in any planter in Outdoor Dining Areas shall provide an “open appearance” (see-through) of at least 75% of the linear frontage of each edge of an Outdoor Dining Area. Plants in elevated non-continuous planters are not to exceed eighteen inches (18”) above the planter rim. Plants in non-continuous planters located on the sidewalk surface (excludes elevated planters) are not to exceed a height of seven feet (7’/84”) from the sidewalk surface. Establishments shall trim plants to maintain them within the height requirements and prevent them from protruding through the Outdoor Dining Enclosure openings to encroach on the Unobstructed Pedestrian Way.

All planters are required to have plants contained within them. If the plants within a planter die, the plants shall be replaced, or the planter removed from the Outdoor Dining Area. Empty planters or

those containing only dirt, mulch, straw, woodchips, or similar material are prohibited. Artificial plants are prohibited. Seasonal thematic planter displays are encouraged.

Establishments are required to maintain any planters in good visual appearance, without visible fading, dents, rust, corrosion, or chipped or peeling paint.

Section 11. *Furniture, Accessories, and Fixtures.*

Each Establishment is responsible for providing the furniture for its Outdoor Dining Area. No Outdoor Dining Enclosure shall be left empty of tables and chairs. Furniture in an Outdoor Dining Area is required to uphold the high standards applied to buildings and other improvements within the CBD. A wide range of furniture styles, colors, and materials are permitted, as addressed herein. All furniture must be entirely contained within the Outdoor Dining Area.

The type and placement of furniture used within Outdoor Dining Areas is required to be approved by the Planning Department. Refer to Section 7 (Application Requirements).

Furniture for Outdoor Dining Areas must be built for outdoor use and be sufficiently sturdy to withstand reasonable variations of weather or wind.

The size and shape of furniture within Outdoor Dining Areas strongly impacts the functionality of the Outdoor Dining Area. Establishments should strive for space-efficient seating layouts and furniture configuration. Although optimal table size varies by each Establishment's specific Outdoor Dining Area, smaller square or rectangular tables are strongly recommended. Smaller square or rectangular tables fit flush against a building's wall to allow more space for patrons in an Outdoor Dining Area. Various party sizes can be accommodated through the day by resituating several smaller square or rectangular tables together, and resetting the area each evening per the approved site plan. Larger tables and/or round tables are less flexible and shall only be considered when an Outdoor Dining Area has ample space.

Signage (names/words/logos/images/etc.) integrated into furniture, accessories, and fixture products is not permitted. See Signage subsection below.

Establishments are required to maintain all furniture, accessories, and fixtures in Outdoor Dining Areas in good visual appearance, without visible fading, dents, tears, rust, corrosion, or chipped or peeling paint. All furniture, accessories, and fixtures shall be maintained in a clean condition at all times.

Furniture and fixtures shall not be secured to Outdoor Dining Enclosures, trees, lampposts, street signs, hydrants, or any other street infrastructure by means of ropes, chains, or any other such devices, whether during operating hours or at times when the Establishment is closed.

The bullet points below describe approvable items within an Outdoor Dining Area. Anything not on the list is prohibited. Examples of prohibited items include, but are not limited to, serving stations, bar counters, shelves, racks, sofas, televisions, trash receptacles, torches, sidewalk coverings (rugs, turf, or other flooring material). Of note, raised decks, platforms and other such surfaces are not permitted within Outdoor Dining Areas unless approved by the Board of Works.

- **Tables:** It must be clear to the Planning Department that table bases and tabletops are appropriate for outdoor commercial use and sufficiently sturdy to withstand reasonable variations of weather or wind. Table bases shall be metal, wood, and/or architectural concrete. Tabletops shall be metal, wood, architectural concrete, commercial grade poly-resin, and/or resin woven wicker over metal. Table bases and tabletops are to be of neutral color; darker colors are preferred to help keep products from looking worn. All tables used within an Establishment's Outdoor Dining Area must be harmonious with each other by being of same construction, design style, material, and color.
- **Chairs:** It must be clear to the Planning Department that chairs are appropriate for outdoor commercial use and sufficiently sturdy to withstand reasonable variations of weather or wind. Chairs shall be metal, wood, architectural concrete, commercial grade poly-resin, and/or resin woven wicker over metal. Chairs are to be of neutral color; darker colors are preferred to help keep products from looking worn. All chairs used within an Establishment's Outdoor Dining Area must be harmonious with each other by being of same construction, design style, material, and color. The use of benches will be considered on a case-by-case basis due to functionality and varying site conditions. Upholstered seat cushions are permitted but must be taken inside when the Establishment is not in service; material shall be that of outdoor fabric in a solid color that is a dark neutral or harmonizes with the outdoor umbrella color and Establishment's façade/façade signage.
- **Umbrellas:** Approvable umbrellas are market-type umbrellas designed specifically for outdoor use made of outdoor fabric with sturdy stands. No plastic fabrics, plastic/vinyl-laminated fabrics, or any type of rigid materials are permitted. Umbrellas, when open, must provide at least seven feet (7'/84") height clearance, measured from the sidewalk surface; this is for safe pedestrian travel and to meet ADA regulations for accessibility. Umbrellas must be fully open or fully closed at all times. Umbrellas must be fully closed when an Establishment is not in service. To ensure a pedestrian scale, no umbrella shall exceed ten feet (10'/120") in height measured from the sidewalk surface. All umbrellas and bases used within an Establishment's Outdoor Dining Enclosure must match construction, design style/shape, material, pattern (solid, stripe, otherwise), and color. Umbrella color(s) and patterns shall harmonize with or provide an accent to the colors of the façade and any facade trim/awning/façade signage. No fluorescent colors will be permitted. It is preferred that umbrellas do not overhang into the Unobstructed Pedestrian Way adjacent to the Outdoor Dining Area; however, some Establishments have a very narrow Outdoor Dining Area. The Planning Department may approve umbrellas that extend beyond an Outdoor Dining Enclosure on a case-by-case basis due to functionality and varying site conditions. The 7'/84" minimum height clearance will not be reduced in any situation. Signage (names/words/logos/images/etc.) on umbrellas is not permitted. See Signage subsection below.
- **Planters:** Planters are addressed in Section 10 (Planters).

- **Signage:** No signage and/or advertising is allowed on any Outdoor Dining Area elements. All signage within the CBD is governed by the requirements of the City's Unified Development Ordinance (UDO); however, when an Establishment is occupying the City's sidewalk/right-of-way with an Outdoor Dining Enclosure, any allowable menu board/movable signage board must be located within the Outdoor Dining Enclosure so as not to further impede pedestrian travel through the area. A space-saving alternate option now offered for each Establishment with an Outdoor Dining Enclosure is to attach the allowable menu board/movable sign board to the Outdoor Dining Enclosure; it may not project higher/wider than the Outdoor Dining Enclosure.
- **Lighting:** Outdoor lighting may be desirable. Since various configurations may be possible, each proposal will be reviewed on a case-by-case basis. Only LED lights in a warm white color will be permitted. Rope lights are strictly prohibited. All lighting must be glare/intrusive-free and maintained according to the requirements of these Standards and Conditions. All electrical wires or cables for lighting should be discreet and shall not create any trip hazards or interfere with accessibility. Extension cords are strictly prohibited in all Outdoor Dining Areas and public rights-of-way. Establishments shall not use any City owned electrical outlets.
- **Heaters:** Manufacturer's specifications of the patio heater must be provided to the Planning Department. Applicant shall be required to schedule an inspection of the proposed heater location.

Heat-producing equipment is to be installed with clearance to combustibles in accordance with the manufacturer's installation instructions. Combustible materials are materials made of or surfaced with wood, compressed paper, plant fibers, plastics, liquids, or other materials that will ignite and burn. Some examples include wood/plastic/composite doors, wood/plastic/composite tables/chairs, wood/plastic/composite planters, wood/plastic/composite barriers, sign bands, umbrellas, menu signs/moveable sign boards, tree canopy (leaves, branches, etc.).

Patio heaters shall be listed and used in accordance with their listing and the manufacturer's instructions. Patio heaters shall be located within five feet (5') of an exit. Patio heaters must have at least ten feet (10') of clearance to combustibles, unless the manufacturer states otherwise.

Any LP-Gas tanks or containers shall be located outside of the building. Storage outside of buildings for tanks awaiting use or exchange shall be located at least ten feet (10') from any customer entrance. LP-Gas tanks or containers shall be kept at least ten feet (10') from any combustible materials. LP-Gas containers shall not be stored on roofs. The storage and handling of LP-Gas install and maintenance of equipment shall comply with NFPA 58.

Section 12. Maintenance of Outdoor Dining Areas.

All Establishments are required to maintain their Outdoor Dining Areas in a clean and sanitary condition at all times. At the end of each business day, each Establishments is required to clean

(sweep, wash as needed) the entire sidewalk in and around the Outdoor Dining Area and remove debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter, or street. Removal and cleaning of cigarette butts and similar matter deposited by patrons of an Establishment in the vicinity of any other business shall be the responsibility of the owner of the Establishment. Failure to maintain a clean premises will be considered a violation, enforced per Section 18 (Enforcement).

All cleaners used on public fixtures or surfaces shall be non-damaging environmentally-friendly, aka “green” substances. The City reserves the right to prohibit the use of any cleaning substance it deems as inappropriate or potentially damaging to fixtures or surfaces in the right-of-way. Any damage done to any sidewalk surfaces, fixtures, or infrastructure shall be the responsibility of the applicant to repair at their cost. This includes any stains, physical damage, discoloration or other evidence of misuse. Any repairs shall be made as soon as possible, and immediately upon request by the City, after consultation with the Planning Department. Alternatively, the City shall be reimbursed by the Establishment for any repairs/restoration of the same.

Section 13. *Removal of Items after Outdoor Dining Season.*

Establishments shall be responsible for removing the Outdoor Dining Enclosure, furniture, planters, umbrellas, lighting, signage, etc. from the Outdoor Dining Area at the end of the Outdoor Dining Season. In the event that an Establishment fails to do so, the City may remove such items and charge the Establishment for all such costs incurred by the City.

Section 14. *Hours of Operation.*

All Outdoor Dining Areas shall cease being used by Establishments by no later than 12:00 midnight.

Section 15. *Amplified Sound.*

Amplified sound from any activity within the Outdoor Dining Area is prohibited.

Section 16. *Smoking.*

Smoking is prohibited in all Outdoor Dining Areas.

Section 17. *Compliance with Law.*

Establishments shall at all times comply with all local, state and/or federal laws and regulations applicable to the operation of Outdoor Dining Areas.

Section 18. *Enforcement.*

It shall be unlawful for any Establishment to operate an Outdoor Dining Area in violation of these Standards and Conditions. Any Establishment which violates any of these Standards and Conditions is subject to fine(s). The fine for violation of these Standards and Conditions shall be up to two hundred dollars (\$200), assessed daily. In the event that an Establishment fails to comply with these Standards and Conditions, the City may summarily abate any violations and charge the Establishment for the cost of same.

In addition, an Establishment may have its Outdoor Dining Area approval suspended or revoked by the Board of Works. The Board of Works reserves the right to deny any application for outdoor dining submitted by an Establishment that was previously found to be in violation of these Standards and Conditions.

Section 19. *Request for Waiver.*

It is the intent of the Board of Works that the Standards and Condition be uniformly applied to all Establishments. That said, it is acknowledged that in certain limited circumstances, there may be a compelling reason to deviate from the Standards and Condition. The process for an Establishment to seek a deviation is as follows:

- a. The Establishment submits a written request ("Request") to the City Planning Director outlining the proposed deviation and the basis for the request. The Request must be signed by an authorized representative of the Establishment.
- b. The Planning Director shall review the Request. The Planning Director may request additional information and/or schedule a meeting with the Establishment's representative.
- c. Upon the Planning Director's receipt of all necessary information, the Planning Director may approve, deny, or modify the Request. The Planning Director may also choose to forward the matter to the Board of Works.
- d. The Planning Director's authority to deviate from the Standards and Conditions shall be limited to items referenced in Sections 14-15. (All other requested deviations not in the purview of the Planning Department/Planning Director shall be directed to the Board of Works after consultation with the Planning Director or his/her designee.) An approved Request shall be valid for one calendar year unless explicitly stated in the Planning Director's written decision. Any approved Request may be modified and/or rescinded by the Planning Director at any time.