



**CITY OF WEST PALM BEACH  
EXECUTIVE ORDER 2020-12  
TEMPORARY OUTDOOR DINING PROGRAM – COVID-19**

**WHEREAS**, the Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza; and

**WHEREAS**, on January 30, 2020, the World Health Organization designated COVID-19, outbreak a Public Health Emergency of International Concern; and

**WHEREAS**, on January 31, 2020, the United States Health and Human Services Secretary, Alex M. Azar II, declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19; and

**WHEREAS**, on March 9, 2020, Governor Ron DeSantis executed Executive Order Number 20-52, declared a State of Emergency in the State of Florida regarding COVID-19; and

**WHEREAS**, on March 13, 2020, President Donald Trump declared a national emergency in response to COVID-19; and

**WHEREAS**, on March 17, 2020, Mayor Keith A. James executed a Declaration of State of Local Emergency; and

**WHEREAS**, on April 1, 2020, Governor Ron DeSantis issued a Safer At Home Order, Executive Order Number 20-91, mandating that all persons in Florida should limit their movements and personal interactions outside of their home to only those necessary to obtain or provide essential services or conduct essential activities; and

**WHEREAS**, on April 16, 2020, President Donald J. Trump issued the White House's Guidelines for Opening Up America Again, a three-phased approach based on the advice of public health experts, to help state and local officials when reopening their economies, getting people back to work, and continuing to protect American lives; and

**WHEREAS**, on April 29, 2020 Governor Ron DeSantis issued Executive Order No. 20-112 titled Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery which allowed certain businesses to safely and strategically re-open in the State; and

**WHEREAS**, on May 10, 2020, Governor Ron DeSantis executed Executive Order 20-120 expanding Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery effective at 12:01 a.m. on May 11, 2020; and

**WHEREAS**, expanded Phase 1 allows restaurants and retail to operate in Palm Beach County at 25 percent capacity with appropriate social distancing; and

**WHEREAS**, section 252.46, Florida Statutes, provides that any county or municipality created pursuant to law are authorized and empowered to make, amend, and rescind such orders and rules as are necessary for

emergency management purposes and to supplement the carrying out of the State Emergency Management Act which includes response, recovery and mitigation necessary in responding to COVID-19; and

**WHEREAS**, section 2-2 of the City of West Palm Beach Code of Ordinances authorizes the Mayor to exercise the emergency powers conferred by chapter 252 of Florida Statutes; and

**WHEREAS**, in addition to the powers conferred by chapter 252, Florida Statutes, section 2-3(2) of the City of West Palm Beach Code of Ordinances permits the waiver of procedures and formalities otherwise required by law or ordinance pertaining to the performance of public work and taking whatever prudent action is necessary to ensure the health, safety and welfare of the community; and

**WHEREAS**, the City of West Palm Beach is launching its "Dining on the Spot" program, which temporarily allows restaurants to expand their business footprint on public rights-of-way and in privately owned parking facilities without meeting certain West Palm Beach code and permit requirements; and

**WHEREAS**, in an effort to reduce the financial hardship on businesses closed and to encourage and support social distancing recommendations for the health, safety, and welfare of the entire community it is advisable to waive and/or reduce certain fees and insurance requirements associated with the Dining on the Spot program; and

**WHEREAS**, it is necessary and appropriate to take additional action to ensure that businesses have the greatest flexibility to operate successfully during the COVID-19 economic recovery while following CDC guidelines and other measures to maintain public safety.

**NOW, THEREFORE**, I, Keith A. James, Mayor of the City of West Pam Beach, Florida, by the authority vested in me pursuant to Chapters 166 and 252 of the Florida Statutes and the City of West Palm Beach Charter and Code of Ordinances, do hereby order:

- Section 1. The City of West Palm Beach Code of Ordinances requiring permits and regulating restaurant outdoor seating and public right-of-way use are temporarily suspended. Restaurants are permitted to expand their business footprint following the process and regulations contained in the Temporary Outdoor Dining Program Guidelines ("Guidelines") attached to this Order as Exhibit "A."
- Section 2. All applicants wishing to provide outdoor seating on private property or public right-of-way shall apply as provided in the Guidelines.
- Section 3. The permit fees associated with the expanding a business footprint is waived until the Governor expands Phase 1: Safe. Smart. Step-by-Step. Plan for Florida's Recovery to allow restaurants to operate at 75% capacity or more.
- Section 4. Prior to issuance of a permit, the applicant shall provide proof of comprehensive general liability insurance in the amount of \$500,000, naming the City of West Palm Beach as an additional insured.
- Section 5. Once a permit is issued, permittees shall follow applicable Guidelines in operation of the extended dining area and shall ensure that all employees and patrons adhere to the Guidelines. Failure of the permittee, employees or patrons to follow the Guidelines shall result in the revocation of the permit.
- Section 6. Should a permit be revoked, the permittee shall have 24 hours to remove all items from the right-of-way or private property used for expanded dining. Failure to remove the items in the right-of

way or private property used for expanded dining will result in a fine of \$500.00 per day for each day the violation continues, which fee shall be imposed by the City of West Palm Beach Special Magistrate.

Section 7. The Mayor may amend provisions of this Order by written notice to the City Clerk.

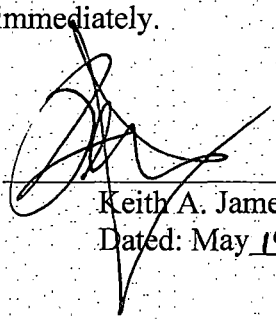
Section 8. The City of West Palm Beach Police Department may use its authorities under Florida law to implement and enforce the provisions of this Order and shall take measures necessary to protect the public health, safety and welfare.

Section 9. This Order shall terminate upon the expiration of the existing City of West Palm Beach State of Local Emergency, except that if such State of Local Emergency is extended, this Order shall also be deemed to extend for the duration of such extension. This Order may be cancelled earlier by action of the Mayor.

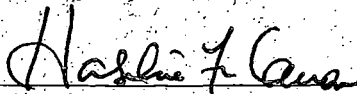
Section 10. This Order shall be effective immediately.

[SEAL]

ATTEST:

  
\_\_\_\_\_  
Keith A. James, Mayor

Dated: May 19, 2020

  
\_\_\_\_\_  
Harline F. Cava

City Clerk

CITY ATTORNEY'S OFFICE

Approved as to form and legality

By: KJR

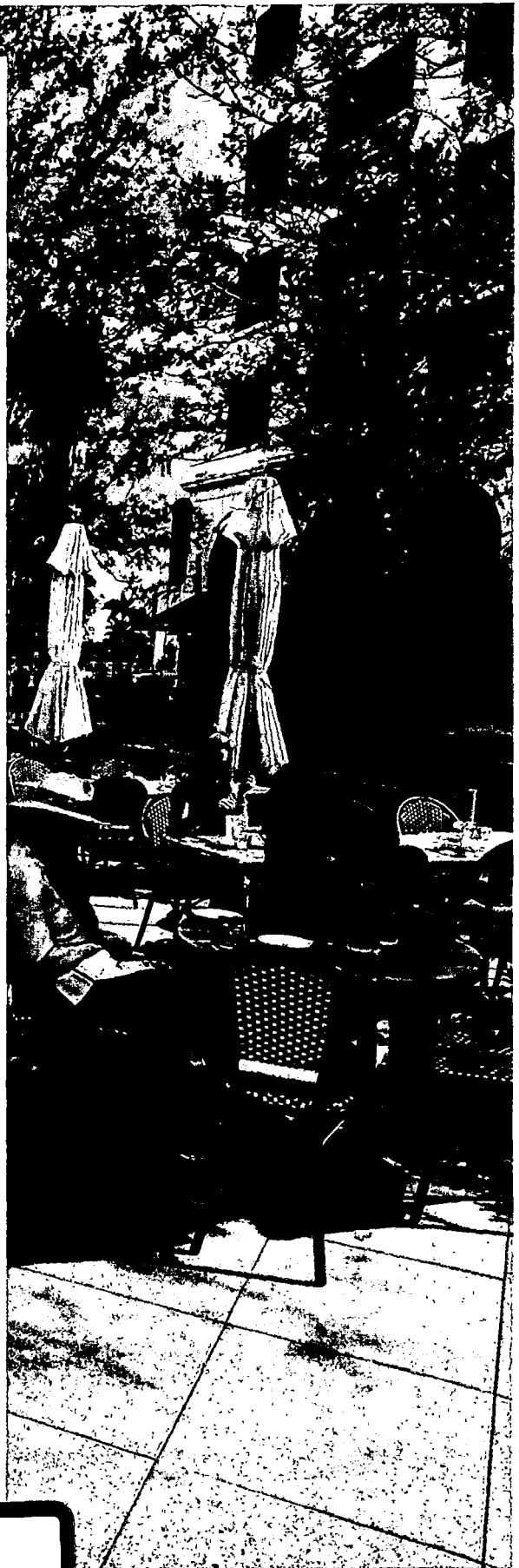
# Temporary Outdoor Dining Program

## Guidelines

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WEST PALM BEACH



EXHIBIT

A

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# Temporary Outdoor Dining Program

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## Guidelines

In concert with the Governor's Executive Order, the City of West Palm Beach has created a Temporary Outdoor Dining Program to ensure businesses have the greatest ability to operate successfully during the COVID-19 economic recovery.

Phase 1 of the program includes leveraging available private and public space to be used as expanded areas for restaurant activity while maintaining public safety requirements.

The program will temporarily allow restaurants and businesses to expand their business footprint into the city-owned public rights-of-way, privately owned parking facilities or privately owned vacant lots without meeting certain City code and permit requirements. Restaurants with direct access to city-owned rights-of-way, private parking areas or other vacant areas or open spaces may utilize these areas for outdoor dining, in accordance with the safety guidelines outlined in this document

To ensure public safety, all restaurants in the City of West Palm Beach using the Temporary Outdoor Dining Program shall implement and follow the requirements listed below:

- Restaurant businesses shall follow the CDC guidelines.
- Indoor seating capacity limited to 50% of occupancy.
- All indoor and outdoor seating must be spaced at least six feet apart.
- All restaurants are encouraged to use a reservation process to prevent capacity issues and avoid gathering of groups of more than 10 people who are waiting to be seated.
- All restaurants are encouraged to provide clear information of ordering take out and shall designate a waiting area for order pick up with clearly designated spaces meeting safe distancing guidelines.

- Facial coverings must be worn by all staff members.
- Make hand sanitizer and/or hand washing available to staff and patrons.
- It is strongly encouraged to screen employees for COVID -19.
- City's noise regulations are still in effect and will be enforced for the temporary outdoor dining.

Restaurants interested in utilizing the Temporary outdoor dining program shall obtain a permit from the City by filling out the application attached to these guidelines and submitting it to the City for approval.

- The complete application can be submitted in the permit drop-box located at the first floor of City Hall, or by e-mail to Rachel Sargent at [rsargent@wpb.org](mailto:rsargent@wpb.org). Please put Temporary Outdoor dining in the subject line.
- Pedestrian zones shall submit a special event permit application. Application can be found at [www.wpb.org/government/community-events/event-permits](http://www.wpb.org/government/community-events/event-permits). For additional information contact Dawn Miller at 561-822-1516.
- No fees are associated with this permit.

The outdoor expansion of restaurant businesses may occur according to two different types:

1. **Temporary outdoor dining on private property.**
2. **Temporary outdoor dining in the public right-of-way.**

## **Temporary outdoor dining on private property**

In accordance with the City of West Palm Beach Executive Order 2020-12, the City is authorizing businesses to temporarily expand dining areas to certain areas of private property not typically permitted for business activity, such as private outdoor areas and parking lots.

- Private parking lots

Up to 50% of off-street private parking spaces counted for required parking may be converted to outdoor dining areas to expand the footprint of the business operation. The converted use must

be in conformance with all City of West Palm Beach Fire Rescue requirements for building accessibility, and safe distancing requirements that provide at least six feet spacing between tables and pathways. The outdoor dining areas must also meet the following requirements:

- Dining areas shall be set up in a manner to provide at least six feet between other tables and pathways.
- No parking for disabled persons may be repurposed for restaurant outdoor dining.
- The required landscape and buffer areas for the off-street parking shall not be used as an outdoor dining area.
- Tents that are 30 feet by 30 feet in size or smaller may be erected in parking spaces to provide shade for the dining area. Tents or shade structures that are larger than 10 feet by 12 feet in size must comply with I.F.I.A tent handbook requirements and are required to obtain a separate permit from the City.

- Vacant lots

Vacant lots adjacent to restaurant businesses can be used for temporary outdoor dining subject to written and signed consent from the vacant lot property owner for use of the property for outdoor dining. The outdoor dining areas must also meet the following requirements:

- Dining areas shall be set up in a manner to provide at least six feet between other tables and pathways.
- Tents that are 30 feet by 30 feet in size or smaller may be erected in vacant lots to provide shade for the dining area. Tents or shade structures that are larger than 10 feet by 12 feet in size must comply with I.F.I.A tent handbook requirements and are required to obtain a separate permit from the City.

- Private open space and public or private plazas

Restaurant businesses may utilize outdoor open spaces within the same property or on adjacent property for the use of outdoor dining, subject to written and signed consent from the vacant lot property owner for use of the property for outdoor dining. The outdoor dining areas must also meet the following requirements:

- Dining areas shall be set up in a manner to provide at least six feet between other tables and pathways.
- No landscape material shall be removed for the temporary outdoor dining.
- Any landscape areas that are damaged by the outdoor dining shall be replaced once the temporary outdoor dining is ended.
- Tents that are 30 feet by 30 feet in size or smaller may be erected in private open spaces to provide shade for the dining area. Tents or shade structures that are larger than 10 feet by 12 feet in size must comply with I.F.I.A tent handbook requirements and are required to obtain a separate permit from the City.

# Temporary outdoor dining on public rights of way

In accordance with the City of West Palm Beach Executive Order 2020-12, the City is authorizing businesses to temporarily expand dining areas onto all sidewalks and on-street parking spaces on City streets, provided the applicable requirements are met. The City has also identified certain streets for full closure and will be temporarily making these street areas available for expanded outdoor dining consistent with the requirements described in these guidelines.

- **SIDEWALKS**

Sidewalk café seating have typically required a sidewalk café permit (Chapter 78, Article X, of the City of West Palm Beach Code of Ordinances). The City is suspending the requirement for sidewalk café permit under the code and now allowing restaurant businesses to temporarily use sidewalks for outdoor dining, subject to the conditions described in these guidelines.

The outdoor dining areas must also comply with the following general requirements:

- A clear pedestrian path of at least six feet shall be maintained to allow the public to circulate.
- Access to public utilities, building entrances, crosswalks, and bus stops shall be maintained.
- Temporary outdoor dining may be extended beyond the immediate frontage of the business. Adjacent businesses are strongly encouraged to coordinate.
- A minimum clearance of 3 feet shall be maintained around fire hydrants and Fire Department connections.
- No barrier shall be permitted around the perimeter of an area occupied by tables and chairs which would have the effect of obstructing the pedestrian path.
- Additional lighting shall be limited to battery operated light set at the tables. Extension cords can only be permitted with the use of proper cable covers that prevent tripping hazard for pedestrians and are ADA compliant.
- No heating, cooking or open flames are permitted.
- No food preparation, food storage or refrigeration apparatus shall be allowed on the public right of way.
- Umbrellas shall be secured by bases and able to withstand or be removed during inclement weather.
- Umbrellas shall be fire-retardant, pressure-treated or manufactured of fire resistant material. No portion of an umbrella shall be less than 7 feet above the sidewalk.
- All restaurants utilizing the right of way are encouraged to use a reservation process to prevent capacity issues.



- **PARKLETS**

The use of on-street parking for outdoor dining have typically required a Parklets permit (Chapter 78, Article XVIII, of the City of West Palm Beach Code of Ordinances). The City is suspending the requirement for a parklets permit under the code and now allowing restaurant businesses to temporarily use on-street parking spaces for outdoor dining, subject to the conditions described in these guidelines. Loading zones will be considered on a case by case basis, dependent on current need for its use and can be controlled through hour of use signage as needed.

The outdoor dining areas must also comply with the following general requirements:

- The temporary outdoor dining shall not block the vehicular traffic.
- A temporary barrier shall be installed along the travel lanes and the adjacent on-street parking spaces. Barrier shall be installed on the edge of the adjacent travel lane and adjacent on-street parking, if any.
- Additional lighting shall be limited to battery operated light set at the tables. Extension cords can only be permitted with the use of proper cable covers that prevent tripping hazard for pedestrians and are ADA compliant.
- No heating, cooking or open flames are permitted.
- No food preparation, food storage or refrigeration apparatus shall be allowed on the public right of way.
- Umbrellas shall be fire-retardant, pressure-treated or manufactured of fire resistant material. No portion of an umbrella shall be less than 7' above the sidewalk.
- ADA on-street parking spaces cannot be utilized for parklets.

- **PEDESTRIAN ZONES**

The City has designated certain pedestrian zones where the City will close selected portions of the right of way and require detours for vehicles to allow the maximum additional space for temporary outdoor dining.

Applications for the designation of a pedestrian zone will be evaluated in a case by case basis and may be submitted by the Downtown Development Authority (DDA), Community Redevelopment Agency (CRA) or a neighborhood/business association. In the interest of public safety, the pedestrian zones can only be approved by the City. The City will provide the maintenance of traffic plan to close the street for vehicles and deploy the necessary detours and signs to direct traffic away from the closure. Pedestrian zones will be approved as special events and do not need to apply for a temporary outdoor dining permit.

Once the pedestrian zone is designated by the City, it is the responsibility of the applicant to activate these spaces with temporary materials such as tables, chairs, umbrellas and other furnishings as needed.

All applicable provision of Executive Order 2020-12 and General Regulations applicable to all Temporary Outdoor Dining contained in the Temporary Outdoor Dining Program are applicable to Pedestrian Zones.

The outdoor dining areas must also comply with the following general requirements:

- A clear pedestrian path of at least six feet shall be maintained to allow the public to circulate.
- Access to public utilities, building entrances, crosswalks, bus stops shall be maintained.
- A minimum clearance of 3 feet shall be maintained around fire hydrants and Fire Department Connections.
- No barrier shall be permitted around the perimeter of an area occupied by tables and chairs which would have the effect of obstructing the pedestrian path.
- Additional lighting shall be limited to battery operated light set at the tables. Extension cords can only be permitted with the use of proper cable covers that prevent tripping hazard for pedestrians and are ADA compliant.
- No heating, cooking or open flames are permitted.
- No food preparation, food storage or refrigeration apparatus shall be allowed on the public right of way.
- Umbrellas shall be secured by bases and able to withstand or be removed during inclement weather.
- Umbrellas shall be fire-retardant, pressure-treated or manufactured of fire resistant material. No portion of an umbrella shall be less than 7 feet above the sidewalk.
- All restaurants utilizing the right of way are required to use a reservation process to prevent capacity issues.
- Smoking will not be permitted within the pedestrian zone.
- Consumption of alcoholic beverages shall be limited to the boundaries on the pedestrian zone. No alcoholic beverages shall be permitted beyond the pedestrian zone.
- Tents placed within pedestrian zones shall be located and sized to allow for a 15-foot-wide clear zone that acts as a pedestrian walkway and can be accessed by emergency vehicles as needed.
- Parties shall be limited to a maximum of 10 people or less.
- Tables and chairs shall be placed a minimum of 6 feet apart.
- Wearing of facial coverings is recommended for patrons.

## **GENERAL REGULATIONS APPLICABLE TO ALL TEMPORARY OUTDOOR DINING**

### **ALCOHOLIC BEVERAGES**

Restaurants and food establishments licensed under Florida Statutes Chapters 500 and 509, with the appropriate license from the Alcoholic Beverage and Tobacco Division of the State of Florida, will be permitted to sell and allow on-premise consumption of alcoholic beverages within the expanded dining areas on private property, on immediately adjacent sidewalk, within parklets and within designated pedestrian zones that have been closed to traffic by the City of West Palm Beach, pursuant to the pertinent alcohol license. This includes the following situations:

- Restaurants that currently have a license that limits sales of alcoholic beverages to 50% or less of total sales.
- All establishments that derive more than 50% of gross revenue from the sale of alcoholic beverages and are also a food establishment licensed under FS Ch 500 or 509.

### **APPLICATION AND PERMITTING**

Restaurants interested in utilizing the Temporary Outdoor Dining Program shall be required to obtain a permit from the City by filling out the application attached to these guidelines and submitting it to the City for approval.

- The complete application can be submitted in the permit drop-box located at the first floor of City Hall, or e-mail to Rachel Sargent at [rsargent@wpb.org](mailto:rsargent@wpb.org). Please put Temporary Outdoor dining in the subject line.
- Pedestrian zones shall submit a special event permit application. Application can be found at [www.wpb.org/government/community-events/event-permits](http://www.wpb.org/government/community-events/event-permits). For additional information contact Dawn Miller at 561-822-1516.
- No fees are associated with this permit.
- For additional questions or information regarding the completion of the application for the Temporary Outdoor Dining program please contact Rachel Sargent at 561-805-6688 or e-mail at [rsargent@wpb.org](mailto:rsargent@wpb.org).

### **HOURS OF OPERATION**

Restaurants utilizing public rights of way for outdoor dining shall comply with the following closing times:

- Friday through Saturday- close at 12:00 Midnight

- Sunday through Thursday- close at 10:00 PM

## **LIABILITY INSURANCE**

Restaurants businesses participating in the Temporary Outdoor Dining Program within the public right of way shall provide a copy of their liability insurance for \$500,000. Insurance shall include the City of West Palm Beach as an additional insured.

## **SIGNAGE**

Restaurant businesses participating in the Temporary Outdoor Dining Program will be allowed to install A frame signs and banners to advertise their business. Any code provision, to the contrary is waived.

- A frame signs shall not obstruct the clear pedestrian path.

## **USE OF SHADE STRUCTURES**

The following requirements shall apply to the use of tents or shade structures within the public right of way or other public spaces:

- The maximum size of tents that may be placed within sidewalks, and parking spaces will be 10-foot by 10-foot.
- No staking of tents is permitted in public rights of way.
- All tent legs must be weighted. Each leg must have a minimum of 25 lbs weights. Weights must be on the ground and not dangling.
- Weights must be securely attached to canopy roof and canopy leg separately. Ropes and straps should be high quality. Bungee or rubbered straps are prohibited.
- Weights and lines must not pose a hazard and be clearly visible.
- Heaters of any kind shall not be used under tents or umbrellas. Smoking is prohibited under tents and shade structures.
- Tents must not have fully enclosed walls in place while open to the public, and all sides should be open for air flow. Half enclosures can be utilized when placing side by side 10 by 10 tents to keep adequate separation between tables if needed.
- Tents larger than 10-foot by 12-foot must obtain a permit and must comply with IFIA Tent Handbook.
- Umbrellas shall be secured by bases and able to withstand or be removed during inclement weather.



WEST PALM BEACH

City of West Palm Beach | Development Services Department  
401 Clematis Street West Palm Beach Florida 33401  
Phone: 561-805-6688 Email: [RSargent@wpb.org](mailto:RSargent@wpb.org)

**TEMPORARY OUTDOOR DINING PROGRAM APPLICATION**

Required: A copy of the liability insurance and a basic site plan MUST be submitted along with this application showing the general set-up of outdoor seating including tables, chairs, and any tents. Location of curbs, parking spaces, and adjacent businesses must be indicated.

EMAIL APPLICATION TO: [RSargent@wpb.org](mailto:RSargent@wpb.org)

APPLICANT/CONTACT NAME: \_\_\_\_\_

PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

BUSINESS NAME: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

**WILL THE OUTDOOR SEATING BE IN THE PUBLIC RIGHT-OF-WAY:**

SIDEWALK:  YES  NO ON-STREET PARKING:  YES  NO ALLEY:  YES  NO

**WILL THE OUTDOOR SEATING BE ON PRIVATE PROPERTY:**

PARKING LOT:  YES  NO DESIGNATED OPEN SPACE:  YES  NO VACANT LOT:  YES  NO

If parking lot is being used please indicate alternative parking options for customers:

TENTS:  YES  NO If yes, tents over 10x12 feet require a permit from Development Services for fire safety review.

SKETCH OUTDOOR SEATING AREA BELOW (OR ATTACH SEPARATELY):

APPLICANT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

OFFICIAL USE ONLY: BTR ACCOUNT #: _____	DATE STAMP: _____
Permit #: _____	