



OUTDOOR DINING RULES AND REGULATIONS

CITY OF ELKINS

401 Davis Avenue, Elkins WV 26241
Phone (304) 636-1414 FAX (304) 635-7135

The City of Elkins permits outdoor dining through an administrative permitting process authorized by Chapter 93 of the City Code. These rules and regulations are subject to change, and some changes may apply retroactively. Any updates will be available at the City Clerk's Office and the City's web page.

For an application, contact the Elkins Zoning Officer at **304-636-1414 extension 1431**, download from the City's web page at <https://cityofelkinswv.com/living/public-service-utilities/code-enforcement-department-building-inspections/outdoor-dining/> or visit in person at City Hall, 401 Davis Avenue, Elkins, West Virginia.

Effective July 28, 2022, no person shall provide outdoor dining in a public space except in accordance with all of the following provisions:

- 1) The operation of an Outdoor Dining Area pursuant to a permit granted shall comply with the Americans with Disabilities Act, all provisions of state and local building and fire codes, as well as all state and local health laws and regulations regarding the service and preparation of food. The operations of an Outdoor Dining Area shall also be conducted in accordance with the code provisions and regulations of the West Virginia Alcoholic Beverage Control Administration (WVABCA).
- 2) The Outdoor Dining Area shall be located adjacent to the property of an existing and lawful establishment of a permitted Operator and shall be under the responsible direction and control of that Operator.
- 3) The Outdoor Dining Area may be open to patrons between the hours of 6:00 a.m. and 11:00 p.m. daily. In the event a permitted Operator intends to serve any beverage regulated by the WVABCA in an Outdoor Dining Area, all code provisions, and regulations of the WVABCA regarding permitted days and hours of service shall be followed.
- 4) All furniture or other personal property located on the public sidewalk/right-of-way by Operator must be readily removable without damage to the surface of public sidewalk/right-of-way. Penetrations into or permanent fixtures placed upon the public sidewalk/right-of-way by Operator are strictly prohibited.
- 5) The Zoning Officer shall have the authority to determine when furniture, personal property and associated enclosures must be removed from the public sidewalk/right-of-way.
- 6) At least 42 inches of unobstructed corridor space must be maintained between the outer dimension of the Outside Dining Area and the curb or nearest obstruction, in order to ensure a clear pedestrian passageway along the sidewalk. In order to achieve a continuous pedestrian walkway, the pedestrian passageway shall be a straight line, parallel to the building face or curb line, for the entire length of the Outdoor Dining Area.

- 7) An unobstructed clearance of 42 inches, must be maintained between a fire hydrant and any furniture or enclosures of an Outdoor Dining Area.
- 8) The Outdoor Dining Area must be kept sanitary, neat, and clean at all times and shall be free from the accumulation of food and litter. In order to control litter, the use of disposable plates and utensils is discouraged.
- 9) Noise from an Outdoor Dining Area which unreasonably disturbs neighboring commercial or residential occupants is prohibited.
- 10) In order to serve any beverage regulated by the WVABCA in an Outdoor Dining Area, the designated area must be included in the floor plan for the licensed premises as approved by the WVABCA. Any beverage regulated by the WVABCA shall be served and consumed only on the enclosed or bounded portion of the public sidewalk designated and permitted by the City as an Outdoor Dining Area. Patrons are not permitted to carry any beverage regulated by the WVABCA out of the Outdoor Dining Area.
- 11) Prior to the issuance of a permit, the applicant must agree, in writing, that it shall indemnify, defend, and save harmless the City, its officers, agents, and employees, from and against all liability, claims, suits, damages, losses, costs, attorneys' fees and expenses of any or all types arising out of, or related in any way to, the permitted Outdoor Dining Area.
- 12) The applicant shall maintain such general liability insurance with at least \$1,000,000 coverage per each occurrence and shall name as additional insured the City of Elkins, its agents, officers, directors, and employees. A copy of said insurance policy shall be furnished to the City of Elkins.
- 13) The authorization and privilege granted by a permit shall be terminated due to the Operator's failure to comply with any federal, state or local laws, any unabated nuisances or whenever the City desires to use the affected public right-of-way for any public purpose.

The City of Elkins Zoning Officer or their designee may conduct site checks to determine if vendors are in compliance with the above rules and regulations. Any Operator who violates any provision of this article shall, upon conviction, be fined up to \$100 per day. Each day any violation of this article shall continue shall constitute a separate offense.