801 Crawford Street, Portsmouth, Virginia 23704
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Outdoor Dining Permit Application

(For Outdoor Dining within the Downtown, D-1 District)

www.portsmouthva.gov/planning/

Notes:
1. A permit is required for the use of the city right-of-way for an outdoor dining area in the Downtown, D-1, District as outlined in Portsmouth City Code Section 32-8.
2. The review fee is $25.00. Make checks payable to: Portsmouth City Treasurer**. (THIS FEE IS NON-REFUNDABLE.) This permit must be obtained annually from the Planning Department.**
3. NEW, AMENDED/EXPANDED outdoor dining areas shall be reviewed by the Downtown Design Committee (DDC). DDC approval must be obtained prior to the issuance of the Outdoor Dining Permit. Please attach a DDC application to this submittal.

Check One: ☐**NEW or AMENDED/EXPANDED Outdoor Dining Request** ☐**RENEWAL Outdoor Dining Request**

OUTDOOR DINING INFORMATION

If this is a new or amended/expanded request, please attach the Downtown Design Committee (DDC) application to this submittal.**

Business Name:	**Business Location/Address:**
Number of outdoor seats:	**Number of outdoor tables:**
Is or will alcohol be served? ☐**YES** ☐**NO**	**If YES, have you obtained your approval from the ABC Board? If so, when?**

APPLICANT INFORMATION

By signing this application below: I hereby certify that I am the owner of record of the named property, or that the owner of record authorizes the proposed work. I, my heirs, successors and assigns agree to indemnify, keep and hold the city free and harmless from all liability on account of injury or damage to persons or property growing out of or directly related to the review and subsequent issuance of an outdoor dining permit. I agree to conform to the applicable laws of this jurisdiction (Americans with Disabilities Act, Portsmouth City Code Section 32-8, attached, etc.) and, if required, I authorize a code official of the City of Portsmouth to enter all areas of the property covered by my issued permit, at a reasonable hour, to enforce the code provisions applicable to my issued permit.

Applicant (Printed Name):		**Mailing Address (For Permit):**	
Phone#		**Email Address:**	
Applicant's Signature:		**Date:**	

****New or Amended/Expanded outdoor dining facilities must provide the following for the Downtown Design Committee Review:**

1. **A lot survey or engineered scaled drawing of the area to be occupied by the outdoor dining facility that provides:**

- A scaled version of tables, seats, fencing, awnings and other appurtenances (amenities) for the facility
- The sidewalk, along with its width, curbing location and any existing light poles, electrical fixtures and other permanent sidewalk fixtures
- The dining area's dimensional setbacks from the building and curbing

2. **A photo or artist rendering of the outdoor dining facility, including colors and a description of the materials to be used for each site amenity for the proposed facility**

Portsmouth City Code Section 32-8. - Outdoor dining areas in rights-of-way.

a) It shall be unlawful for any person to cause an outdoor dining area to be established in any public right-of-way of the city except as permitted by this section.

b) Upon determination that an outdoor dining area will not materially or unreasonably interfere with the use of any public right-of-way or constitute a hazard, the city council or its designee may issue an outdoor dining area permit subject to the following conditions:

1. That application be made in writing to the city manager for such permit, in a form satisfactory to the city manager, to which shall be attached a plat of survey or an engineering drawing depicting the area to be occupied by the outdoor dining facility.
2. That the outdoor dining area permit shall be revocable at the pleasure of city council or its designee.
3. That the permit to be issued by the city manager shall provide that the permittee, for himself, his heirs, successors and assigns, shall agree to indemnify, keep and hold the city free and harmless from liability on account of injury or damage to persons or property growing out of or directly or indirectly resulting from such use and the maintenance, operation and removal thereof; and that in the event that any suit or proceeding shall be brought against the city, at law or in equity, either independently or jointly with such permittee on account thereof, the permittee will defend the city in any such suit or proceeding at the cost of the permittee; and in the event of a final judgment or decree being obtained against the city, either independently or jointly with the permittee, then the permittee will pay such judgment or comply with such decree and pay all costs and expenses of whatsoever nature and hold the city harmless therefrom.
4. That the dining area shall be temporary in that installation shall be in such a manner that posts, chairs, tables, planters or other equipment can be removed during periods of nonuse.
5. That the outdoor dining area may extend into the right-of-way to a maximum of **five feet** from the property line of the permittee; provided that the outside dining area shall not reduce the open sidewalk width to less than **eight feet** of pedestrian access at any point.
6. That adequate off-street parking must be provided for any additional tables to meet the zoning ordinance requirements.
7. That any signage pertaining to the outdoor dining area will be in compliance with the zoning ordinance.
8. That the permittee agrees to maintain all equipment, tables, chairs or planters placed in the outdoor dining area.
9. That the issuance of the permit shall not relieve the permittee of the obligation to obtain and maintain in full force and effect any permits required by the department of public health or other applicable state or local agencies or departments.
10. That the permittee shall comply with all applicable codes, ordinances, policies and regulations of federal, state and local governments and shall obtain all necessary licenses and permits.
11. That the permit shall be issued to the applicant and shall not be transferable or assignable without written approval of the city manager.
12. That the city council or its designee may impose such other reasonable conditions, including but not limited to a reasonable rent, as may be deemed appropriate.
13. That the permit shall be renewable annually.
14. That the permit shall be subject to the provisions and conditions contained in section 2.09 of the Charter.
15. That the application fee for each annual permit shall be as set forth in appendix A to this Code. Such application fee shall be nonrefundable.

(Code 1988, § 32-9; Ord. No. 1988-70, 7-12-1988; Ord. No. 1989-44, § 1, 5-15-1989)