

ORDINANCE REGARDING THE USE OF MUNICIPAL PROPERTY FOR OUTDOOR DINING

Be it ordained by the Town Council of the Town of Plainville, in meeting duly assembled, that pursuant of the Charter of the Town of Plainville and Section 7-136 of the Connecticut General Statutes, the following ordinance is adopted.

Section One: Purpose

The purpose of this ordinance is to permit the private use of public property for outdoor restaurant and café seating in the Central Commercial Zone. It is the belief that such activities in a safe and orderly manner will enhance the vitality of the downtown area.

Section Two: Definitions

1. Central Commercial Zone shall be as defined and located by the Plainville Planning and Zoning Regulations and Zoning Map
2. Public Property shall be defined as any portion of the Town's right of way not specifically used for vehicle travel.
3. Restaurant shall be defined as a public establishment operated primarily for the serving of food to the general public. Such restaurant may serve liquor on public property as long as the establishment complies with all applicable State Liquor Control Commission regulations.
4. A café shall be defined as outlined in the Connecticut General Statutes. Cafés may serve liquor on public property as long as the establishment complies with all applicable State Liquor Control Commission regulations.
5. Serving isle shall be defined as that space assigned to permit passage within the outdoor dining area.

Section Three: Permit Procedure

1. The applicant shall file with the Town Manager's Office an application including a sketch showing the proposed area to be used. Such sketch shall show the limits of the dining area, remaining sidewalk, utility structures and or other sidewalk obstacles and curbing. The permit application will be reviewed by the appropriate Town officials. A decision shall be rendered by the Town Council within forty-five days (45) of such filing. Any approval may be contingent upon site specific conditions in addition to the general requirements described below. A fee will be assessed upon approval for each square foot of public space used. Such fee shall be incorporated into the Town's Planning and Zoning Commission's standard fee schedule.
2. The permit duration shall be from April 1 to October 31 of each calendar year. Annual renewals may be submitted after January 15 of each year. The annual renewal shall consist of a filing statement stating the permittee will comply with the conditions of the

previous year's approval, submission of the proper insurance documents and a fee based on the area to be used.

3. Permits may be revoked by the Town for non-compliance with the conditions of their approval or general condition described below.
4. Permits shall be non-transferable.

Section Four: General Requirements

1. The outdoor dining area shall not interfere with, create hazards or impair visibility for pedestrians or motorists.
2. The operations and configurations of the outside dining area shall conform to all applicable health, liquor commission, fire, and building codes. Such town and state governing agencies shall provide the Town Manager a written sign off prior to opening such dining area.
3. The outside dining area shall be configured in such a manner that does not restrict emergency access to the building.
4. The hours of operation for the outside dining area shall be from 10:00 A.M. to 10 P.M. daily.
5. Devices used for shading shall be a nonpermanent type and shall be safely anchored. No advertising shall be placed on such shading devices.
6. The Town shall pre-approve all furniture, shading devices, barriers and trash receptacles to be used and located in the outside dining area.
7. No outside audio systems shall be permitted.
8. There shall be no food preparation or cooking within the outdoor dining area.
9. The serving isle shall be at least three feet in width.
10. The permittee shall maintain the dining area in a clean and orderly fashion. All debris which may fall or be blown onto the sidewalk shall be removed in a timely manner. Proper trash receptacles shall be provided and maintained. The sidewalk area shall be cleaned on a daily basis. Failure to clean and maintain the outdoor dining area and surrounding vicinity shall be grounds to revoke the permit or reject future permit applications.
11. A barrier or fence shall be placed between the dining area and sidewalk. Such barrier or fence shall be made of sufficient material to protect the pedestrian area from the dining space.
12. A minimum five foot unobstructed pedestrian pass-way as measured from the curb shall be maintained at all times. An exception may be granted at locations where fire hydrants, utility poles, street signs and the like are found the pedestrian unobstructed width may be reduced to forty-two inches (42) for a distance no greater than ten (10) linear feet. The

Town will also consider the relocation of street furniture if practical. Any costs associated with such relocation shall be the responsibility of the permittee.

13. All permit approvals shall be contingent upon the applicant submitting to the Town Manager's office proof of the following insurance:
 - a. A minimum one million (\$1,000,000.00) dollar general liability policy naming the Town as an additional insured, and
 - b. A liquor insurance policy or equivalent, in the minimum amount of one million (\$1,000,000.00) dollars naming the Town as an additional insured as required for all establishments serving alcohol.

14. All tables, chairs, serving equipment, trash receptacles and temporary barriers shall be removed from the public sidewalk when the outdoor dining area is not in use.

Section Five: Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof be for any reason held to be unconstitutional or invalid or ineffective by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof.

Section Six: Effective Date

This Ordinance shall take effect after passage and thirty (30) days after publication.

Adopted by Town Council October 18, 2004