
18.32.040 Conditions of use.

- (a) Residential living units, including lodging rooms, are not permitted below the second floor except in a building allowed as a special use by the plan and zoning commission.
- (b) All business establishments shall be retail or service establishments dealing directly with consumers, except for wholesale establishments where the storage of merchandise is limited to samples only. All goods produced on the premises shall be sold at retail on the premises where produced.
- (c) All business, servicing, storage, or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.
- (d) Establishments of the drive-in type offering entertainment, food, goods and/or services directly to customers waiting in parked motor vehicles are not permitted.
- (e) Outdoor seating for restaurants.

1. Definition. As used in this section, the following definition shall apply:

Restaurant, outdoor seating: An outdoor seating area is defined as any portion of a business establishment where the principal business activity is the sale and consumption of food on-premises, and is unenclosed and not used for other purposes.

2. Outdoor seating accessory to a restaurant, fast-food restaurant or food establishment meeting the above definition shall be treated as a temporary use, subject to approval in accordance with the procedures and standards set forth in this article. In addition, all such outdoor seating shall meet the following standards:

- (a) The outdoor seating area is to be open to the sky with the exception that it may have a retractable awning, umbrella, or be placed under a building canopy and may contain furniture including tables, chairs, railings, planters, etc., which are readily moveable.
- (b) The seating may be located on public property or a public right-of-way provided that four feet of the public sidewalk remains obstruction free. If seating is provided on public sidewalk a certificate of insurance with the Village of Westchester listed as an additional non-contributory insured and a certificate holder is required. The seating may be located on private sidewalks or pedestrian walkways provided that four feet of the walkway remains obstruction free. If alcohol is to be served, a fence or similar barrier shall be constructed around the outdoor seating area where liquor is served.
- (c) The outdoor seating area may be located in any required yard or setback.
- (d) The seating shall not occupy or interfere with the use of required parking spaces, aisles, driveways, fire lanes and fire exits.
- (e) The seating shall not occupy or interfere with the use of building entrances, exits and pedestrian walkways.
- (f) Off-street parking shall comply with existing ordinance requirements with respect to the additional area occupied by the outdoor seating or the number of seats contained therein.
- (g) Lighting which is directly related to the operation of the outdoor seating area shall be directed away from adjacent properties in such a manner as shall not create a public nuisance.
- (h) No entertainment, whether live, recorded or otherwise, shall be permitted in the outdoor seating area.

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- (i) The outdoor seating area shall be immediately adjacent to the principal building. If the outdoor seating area only includes tables and/or seating immediately adjacent to the exterior wall of the principal building, no fencing shall be required. If the outdoor seating shall include tables and/or seating not immediately adjacent to the exterior wall of the principal building, fencing shall be required.
 - (j) The outdoor seating area shall conform to the site plan with seating plan drawn to scale and elevation drawings, and be adequately landscaped and/or screened as determined necessary by the director of community development.
 - (k) All outdoor seating shall be placed on an all-weather hard surface area.
 - (l) All outdoor seating areas shall comply with current life safety and exit code requirements adopted by the village as now existing or hereafter amended.
 - (m) The outdoor furniture may be left out overnight, but in no case shall be locked up, secured or stored in an unattractive or unorganized manner.
 - (n) Outdoor seating areas shall be adequately landscaped as determined necessary by the director of community development or his/her authorized designee.
 - (o) Outdoor seating areas may contain an area for grilling food that complies with Municipal Code Section 8.12.180 outdoor grilling at fixed food establishments.
- (3) A business license for the outdoor seating area is required prior to the opening of the outdoor seating area. The business license is valid from March 1st through November 30th and needs to be renewed annually. Within twenty-four hours of the occupancy permit expiring all outdoor furniture must be removed.
- (4) Picnic tables located at a park, golf course, or recreation center shall not be deemed "outdoor seating" subject to (1)—(3) above.

(Ord. No. 2014-2067, § 4, 6-10-2014; Ord. No. 2013-1985, § 5, 1-8-2013; Ord. 64-682 § 3.6-4, 1964)

(Ord. No. 2017-2260, § 17, 12-12-2017; Ord. No. 2015-2164, § 2, 12-15-2015)