

**AGENDA**  
**REGULAR MEETING OF THE BIRMINGHAM PLANNING BOARD**  
**WEDNESDAY APRIL 13, 2022**  
**151 MARTIN ST., CITY COMMISSION ROOM 205, BIRMINGHAM MI\***  
**\*\*\*\*\*7:30 pm\*\*\*\*\***

Michigan and Oakland County are at a substantial rate of COVID-19 community transmission. Per Occupational Safety and Health Administration (OSHA) mask guidance for areas of high or substantial community transmission levels, and to continue to protect essential government operations and functions, the city requires masks in City Hall for all employees, and for board and commission members. Masks are recommended for members of the public who attend city meetings. The city continues to provide KN-95 respirators for all in-person meeting attendees.

- A.** Roll Call
- B.** Review and Approval of the Minutes of the Regular Meeting of **March 23 and March 31, 2022**
- C.** Chairpersons' Comments
- D.** Review of the Agenda
- E.** Unfinished Business
- F.** Rezoning Applications
- G.** Community Impact Studies
- H.** Special Land Use Permits
- I.** Site Plan & Design Reviews
  - 1. **191 N. Chester – OneStream – Request for new dumpster enclosure (WITHDAWN)**
- J.** Study Session
  - 1. **Outdoor Dining Ordinance – Public Hearing**
  - 2. **Side Yard A/C Units – Study Session**
  - 3. **Barrier-Free Ramps – Study Session**
  - 4. **Front Yard Setbacks – Study Session**
- K.** Miscellaneous Business and Communications:
  - 1. Pre-Application Discussions
    - i. **115 Willits – Mare**
  - 2. Communications
    - i. **Joint Meeting with City Commission – Monday April 18, 2022**
  - 3. Administrative Approval Correspondence
  - 4. Draft Agenda – **April 27, 2022**
  - 5. Action List - 2022
  - 6. Other Business
- L.** Planning Division Action Items
  - 1. Staff Report on Previous Requests
  - 2. Additional Items from Tonight's Meeting
- M.** Adjournment

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\*Please note that board meetings will be conducted in person once again. Members of the public can attend in person at Birmingham City Hall OR may attend virtually at:

**Link to Access Virtual Meeting:** <https://zoom.us/j/111656967>

**Telephone Meeting Access:** 877-853-5247 US Toll-Free

**Meeting ID Code:** 111656967

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Las personas con incapacidad que requieren algún tipo de ayuda para la participación en esta sesión pública deben ponerse en contacto con la oficina del escribano de la ciudad en el número (248) 530-1800 o al (248) 644-5115 (para las personas con incapacidad auditiva) por lo menos un día antes de la reunión para solicitar ayuda a la movilidad, visual, auditiva, o de otras asistencias. (Title VI of the Civil Rights Act of 1964).

**City Of Birmingham**  
**Regular Meeting Of The Planning Board**  
**Wednesday, March 23, 2022**  
City Commission Room  
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on March 23, 2022.  
Chair Scott Clein convened the meeting at 7:36 p.m.

**A. Roll Call**

**Present:** Chair Scott Clein; Board Members Robin Boyle, Bert Koseck, Daniel Share, Janelle Whipple-Boyce; Student Representatives MacKinzie Clein, Andrew Fuller

**Absent:** Board Member Stuart Jeffares, Bryan Williams; Alternate Board Members Jason Emerine, Nasseem Ramin

**Administration:**

Nick Dupuis, Planning Director  
Leah Blizinski, City Planner  
Brooks Cowan, Senior Planner  
Laura Eichenhorn, City Transcriptionist

**03-61-22**

**B. Approval Of The Minutes Of The Regular Planning Board Meeting of March 9, 2022**

**Motion by Mr. Share**

**Seconded by Ms. Whipple-Boyce to approve the minutes of the Regular Planning Board Meeting of March 9, 2022 as submitted.**

**Motion carried, 5-0.**

VOICE VOTE

Yeas: Share, Boyle, Whipple-Boyce, Koseck, Clein

Nays: None

**03-62-22**

**C. Chair's Comments**

Chair Clein welcomed everyone to the meeting and reviewed the meeting's procedures.

**03-63-22**

**D. Review Of The Agenda**

**03-64-22**

**E. Unfinished Business**

None.



**03-65-22**

**F. Rezoning Applications**

None.

**03-66-22**

**G. Community Impact Studies**

**1. 294 E. Brown St. – Request for new 4-story mixed-use building**

Chair Clein recused himself from Items G1 and I1 at 7:38 p.m., citing a business relationship with one of the applicants. Items G1 and I1 were discussed together.

At the Chair's request, Mr. Boyle assumed facilitation of the meeting at 7:38 p.m.

PD Dupuis reviewed the updates to the community impact study (CIS) and the preliminary site plan and design review.

In reply to Mr. Share, PD Dupuis confirmed that the City's traffic consultant was advising improvements to the pedestrian crossings on Brown Street. Those improvements would include rebuilt crosswalks and ramps, restriped crosswalks, and a signalized crossing with flashing beacons on Brown. He stated the applicant was willing to implement those improvements. He said he would consider that a CIS condition as opposed to a site plan condition.

Victor Saroki, architect, and Michael Dul, landscape architect, spoke on behalf of the project.

Mr. Saroki confirmed that the applicant team was willing to make the aforementioned pedestrian improvements to Brown. He continued that the project was planned to complement the RH project. He explained why synthetic plantings were being proposed for one area of the site and what the project might do if the synthetic plantings were not approved. He offered to bring synthetic plantings for the Board's review at final site plan should the Board be interested.

Mr. Dul described the synthetic plantings being proposed as white birch with a limited amount of ground cover.

In reply to Mr. Koseck, PD Dupuis stated that Article 4, Section 4.20 would allow the Board to provide a waiver for 'innovative landscaping'.

Mr. Boyle asked the applicant to bring images and samples of the proposed synthetic plantings for review at final site plan.

Mr. Share also asked the applicant to let the Board know if there were any examples of the birch-type synthetic plantings in use somewhere nearby.

Mr. Dul said he would let the Board know if he could think of an example. He said he hoped it would not start a trend in Birmingham 'with front lawns and such'.

In reply to Mr. Share, Mr. Saroki confirmed that while windows were considered for the west elevation in order to break up the view of brick on the first floor, they were decided against because they would only provide a view of the garage ramp and utility spaces. He stated that plantings would be used to enliven the area instead.

PD Dupuis recommended that a mural be considered for the west elevation as part of the City's new wall art program. He said the applicant had previously expressed interest in that as well.

#### Public Comment

David Bloom expressed general approval of the project, while raising concerns about its impact on parking in the downtown area. He recommended the project consider having the upper three floors be entirely residential and that the City consider a private-public partnership with the developer to add more on-site parking partially for public use.

Mr. Boyle raised concerns about increasing office vacancy rates nationally and asked if the second floor could be retrofitted for a use other than office if necessary.

Mr. Saroki stated that the second floor will be identical to the residential floors in terms of height, windows, and footprint, so changing the use would be feasible if desired at some point in the future. He added that the office real estate market in Birmingham is currently strong and that a number of prospective office tenants have already expressed interest in renting out the second floor.

Mr. Koseck praised the project and spoke in favor of the inclusion of an office use within the project.

#### **Motion by Mr. Share**

**Seconded by Ms. Whipple-Boyce to accept the Community Impact Study as provided by the applicant for the proposed development at 294 E. Brown with the following conditions:**

- 1. The Planning Division suggests that the applicant review any and all opportunities on site to provide stormwater detention in the form of green infrastructure;**
- 2. The applicant comply with the requests of the City's traffic consultant and submit a final transportation impact study;**
- 3. The applicant must comply with the requests of all City departments; and,**
- 4. That the applicant improve the pedestrian crosswalk on Brown, slightly to the west of 294 E. Brown, by installing signage, updating the ADA ramps, and restriping the crosswalk.**

**Motion carried, 4-0.**

ROLL CALL VOTE

Yeas: Share, Boyle, Whipple-Boyce, Koseck

Nays: None

**03-67-22**

## **H. Special Land Use Permits**

### **1. 2225 E. 14 Mile – Our Shepherd – SLUP request for parking lot/circulation improvements and minor exterior façade changes.**

After the review of Items G1 and I1, Chair Clein resumed facilitation of the meeting at 8:26 p.m.

PD Dupuis reviewed the item.

David Priskorn, Director of Operations for Our Shepherd, Howard Adams, Chair of the Board of Trustees for Our Shepherd, and Mark Abanatha, architect, spoke on behalf of the project.

Ms. Whipple-Boyce said she did not believe screening was necessary. She said she was concerned about the height and number of signs proposed. She said she appreciated the plans for the landscaping and street trees.

In reply to Board inquiry, PD Dupuis said he did not believe the ordinance imposes limitations on signage heights for religious institutions.

Mr. Boyle asked if the church had considered a further reduction in the size of their parking lot given potential changes in attendance.

Mr. Priskorn said that attendance was regularly at two-thirds to three-quarters of pre-pandemic rates.

Mr. Koseck said he felt that the site had unique adjacencies and conditions that made screening unnecessary. He said the plans would result in a number of improvements to the site. He said he was less concerned about the size of the sign on 14 Mile given the speed of traffic on the road. He said he was also glad to hear the parking lot and vehicular access are shared with Eton Academy (Eton).

Mr. Share concurred with Mr. Koseck regarding the signs on 14 Mile, though he said the sign could stand to be smaller on Melton. He said he was interested in seeing some sort of separation between the church's lot on the north side of the property, and Eton's lot.

Chair Clein and Mr. Share both said they would be supportive of landscaping at the north side of the property to visually provide some break between the two parking lots.

The Chair offered praise for the planned bio-garden, pedestrian improvements, and increases in landscaping. He said he wished the size of the parking lot would be reduced a bit further. He also agreed that the size of the sign on Melton could likely be reduced. He said that neither of those issues would cause him to vote against the project.

#### **Motion by Mr. Share**

**Seconded by Ms. Whipple-Boyce to recommend approval to the City Commission the Special Land Use Permit for 2225 E. 14 Mile – Our Shepherd – subject to the conditions of Final Site Plan approval.**

**Motion carried, 5-0.**

VOICE VOTE

Yeas: Share, Boyle, Whipple-Boyce, Koseck, Clein

Nays: None

**03-68-22**

**I. Site Plan & Design Reviews**

**1. 294 E. Brown St. – Request for new 4-story mixed-use building**

Discussed during Item G1.

**Motion by Mr. Koseck**

**Seconded by Mr. Share to approve the Preliminary Site Plan for 294 E. Brown with the following conditions:**

- 1. The applicant must remove the synthetic planting material (turf, groundcover, birch trees, etc.) as currently proposed, or at final site plan review provide alternative definitions and how it might be considered in reference to Article 4, Section 4.20;**
- 2. The applicant must submit revised plans showing a loading space that meets the requirements of Article 4, Section 4.24 (C) of the Zoning Ordinance;**
- 3. The applicant must submit material specifications, samples and all other required information for the proposed building to complete the Design Review at Final Site Plan; and**
- 4. The applicant must comply with the requests of all City Departments.**

**Motion carried, 4-0.**

ROLL CALL VOTE

Yeas: Share, Boyle, Whipple-Boyce, Koseck

Nays: None

**2. 2225 E. 14 Mile – Our Shepherd – Final Site Plan and Design Review request for parking lot/circulation improvements and minor exterior façade changes.**

Discussed during Item H1.

**Motion by Mr. Boyle**

**Seconded by Ms. Whipple-Boyce to recommend approval to the City Commission the Final Site Plan and Design Review for 2225 E. 14 Mile – Our Shepherd – subject to the following conditions:**

- 1. The applicant must submit revised site plans with parking lot screening that meets the requirements of Section 4.54, or obtain a variance from the Board of Zoning Appeals;**

- 2. The applicant must submit revised landscaping plans replacing the prohibited Burning Bush Plantings with a permitted species;**
- 3. The applicant must submit revised site plans with the required street trees on Melton and 14 Mile, obtain a variance from the Board of Zoning Appeals, or obtain a waiver from the Staff Arborist;**
- 4. The applicant must submit revised photometric plans that meet the requirements of Article 4, Section 4.21 of the Zoning Ordinance;**
- 5. The applicant must submit revised sign plans that meet the requirements of the Sign Ordinance, or obtain a variance from the Board of Zoning Appeals; and,**
- 6. The applicant must comply with the requests of all City Departments.**

**Motion carried, 5-0.**

VOICE VOTE

Yeas: Share, Boyle, Whipple-Boyce, Koseck, Clein

Nays: None

**3. 36877 Woodward – Gasow – Preliminary Site Plan request for a new 2-story building and associated site improvements**

SP Cowan presented the item.

In reply to Mr. Koseck's comments about the number of conditions, PD Dupuis noted that approximately a third of the items were topics that the Board does not usually address until final site plan and design review.

Mike Matthys, architect, and Mike Bailey, owner of the property, spoke on behalf of the project. Mr. Matthys said adding sufficient screening to the north parking spots, accommodating the 14 foot floor-to-floor minimum, adjusting the sidewalks to meet the zoning requirements, and providing the materials for refuse container screening would be no issue.

Mr. Matthys said he was hoping to hear Board comment about screening in the rear of the building, screening on the south side of the parking lot, and access to the parking lot from Woodward. He added that the plans could likely meet the glazing requirements without issue.

Mr. Koseck said he would like to see the applicant modify the site plan to come closer to having 75% of the building façade within zero to five feet of the front lot line. He recommended that the lobby area be within zero to five feet of the front lot line with the exam room areas being further back. He said he was excited to see a new building with quality materials in this location, but that aspects of it could come further into compliance with the ordinance.

Mr. Bailey noted the site's conditions are difficult since it is bound by Consumers, DTE, and extant MDOT curb cuts. He said that the site could not accommodate more parking in the rear because of the alley and the topography. He opined that while requiring the building façade to be within zero to five feet of the lot line makes sense to prevent a gap in retail in a pedestrian-heavy area,

this site does not have those conditions and so the requirement may not be as relevant in this case.

Public Comment

Brady Blaine, neighbor of Gasow, summarized his letter to the Board requesting a few areas of additional screening on-site.

Robert Runco, neighbor of Gasow, concurred with Mr. Blaine's comments. He added that the alley to the south should remain closed and that the 16-foot light should be shielded appropriately.

Messrs. Blaine and Runco were both in favor of the general designs and plans for the project.

Ms. Whipple-Boyce said that in this condition she understood why the plans did not comply with TZ-3, and expressed support for the planned improvements to the site. She continued that she would be supportive of having a six-foot masonry screening wall across the rear parking given the comments of the neighbors. She said some creativity would be required to create some screening beyond the parking to the south. She said it did make sense for the wall to be in the southwest portion of the main parking lot, but that landscaping would be adequate in the area facing Woodward.

In reply to an inquiry from Ms. Whipple-Boyce, the applicant confirmed that the lack of a sidewalk from the rear entry to the main parking lot is because only staff would be using the rear entry and would be parking in the alley.

In reply to Mr. Boyle, PD Dupuis noted the applicant would be obligated to improve the alley if they continue using it. He also acknowledged Mr. Boyle's recommendation that Staff see how they might facilitate other improvements to the area surrounding the property, including the utilities uses, in order to make the area to the north more attractive to potential tenants.

Mr. Koseck recommended the applicant consider eliminating a few of the parking spaces on-site in favor of increased landscaping if at all possible.

Chair Clein thanked the applicant for agreeing to install a screening wall according to the neighbors' requests, and advised the applicant that projects that work with the neighbors produce better results. The Chair continued that the screening in the rear will be useful and that he did not see a need to change the screening in the front. He said he would prefer to see evergreen screening along the north property line rather than a masonry wall. He said he felt to some extent that the applicant was trying to skirt the ordinance by characterizing the project as a rebuild. He said he was not sure whether he would support a variance relating to that.

Mr. Matthys said that given the feedback from the neighbors and the Board the applicant would not be seeking a variance for the screening wall. He said he would work with neighbors to design a screen wall they would support. He said the applicant would pursue a variance from the requirement that 75% of the building façade be within zero to five feet of the front lot line. He stated that if the variance is not granted the applicant would attempt to comply with the ordinance.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Share to approve the Preliminary Site Plan for 36877 Woodward Ave, Gasow Veterinary Clinic, with the following conditions:**

- 1. The applicant apply for a lot combination to consolidate the parcels where the updated veterinary clinic is proposed;**
- 2. The applicant modify the site plan to have 75% of the building façade within 0-5 feet of the front lot line, or obtain a variance from the Board of Zoning Appeals;**
- 3. The applicant reduce the parking lot frontage to 25% or less of the front lot line, or obtain a from the Board of Zoning Appeals;**
- 4. The applicant satisfy all parking lot screening and buffer requirements of Article 4, Section 4.53 and 4.54 of the Zoning Ordinance for the proposed on-site and off-site parking lots through an understanding with the neighbors regarding satisfying to lot screening, or obtain a variance from the Board of Zoning Appeals;**
- 5. The applicant indicate materials and dimensions for mechanical units and refuse container screening;**
- 6. The applicant obtain approval from the Police Department to count on-street parking spaces towards their parking requirement;**
- 7. The applicant modify the site plan to have 6 foot wide sidewalks on-site and a 7 foot wide sidewalk along Woodward Ave;**
- 8. The applicant modify the site plan to incorporate two (2) entrances facing Woodward Ave;**
- 9. The applicant modify the site plan to eliminate large blank walls on both floors of the southern and western elevations;**
- 10. The applicant provide 5 bike racks to service the building;**
- 11. The applicant submit material specifications, samples, dimensions, and all other required information for the proposed building to complete the Design Review at Final Site Plan and SLUP review; and,**
- 12. The applicant comply with the requests of all City Departments.**

**Ms. Whipple-Boyce said she was comfortable moving the item since discussion clarified that many of the items would either be resolved or addressed at the BZA.**

**Mr. Koseck said he would vote no on the motion until the Board can gain more insight on the curb cuts from Woodward and the related on-site traffic flow. He said he would like to hear from the City's traffic engineer on the safety of that aspect of the design.**

**Chair Clein directed Staff to ensure that all outstanding issues between the applicant and the City's traffic engineer, BZA, MDOT, neighbors, and other potentially relevant parties are resolved before the project returns to the Board for final site plan and design review.**

**Motion carried, 4-1.**

ROLL CALL VOTE

Yeas: Share, Boyle, Whipple-Boyce, Clein

Nays: Koseck

**4. 191 N. Chester – OneStream – Design Review request for new dumpster enclosure**

CP Blizinski presented the item.

The Chair acknowledged an email from Robert Citrin of 532 Willits regarding whether trash would be put on the property or on the street.

Kevin Biddison, architect, spoke on behalf of the project. He stated the trash would remain in-place until collection, and then would be immediately returned to its enclosure. He noted that this would occur outside of times when the lot is in use.

Ms. Whipple-Boyce and Messrs. Koseck and Share raised concerns about the proposal, particularly noting the proximity of the dumpster to the single family home to the west.

Chair Clein and Mr. Koseck said that if this design had been part of the original proposal they would have hesitated to approve it.

Noting the number of concerns on the part of the Board, it was recommended that the applicant consider requesting a postponement which would result in more Board members present for a vote and a chance to amend the plans.

Mr. Biddison agreed with that recommendation.

**Motion by Mr. Share**

**Seconded by Mr. Boyle to amend the rules of procedure for the April 13, 2022 Planning Board meeting to permit consideration of 191 N. Chester – OneStream – Design Review request for a new dumpster enclosure.**

**Motion carried, 5-0.**

VOICE VOTE

Yeas: Share, Boyle, Clein, Whipple-Boyce, Koseck

Nays: None

**Motion by Mr. Share**

**Seconded by Mr. Boyle to postpone consideration of the application of 191 N. Chester – OneStream – request for a new dumpster enclosure to April 13, 2022.**

**Motion carried, 5-0.**

VOICE VOTE

Yeas: Share, Boyle, Clein, Whipple-Boyce, Koseck

Nays: None



**03-69-22**

**J. Study Session**

None.

**03-70-22**

**K. Miscellaneous Business and Communications**

- 1. Pre-Application Discussions**
- 2. Communications**
- 3. Administrative Approval Correspondence**
- 4. Draft Agenda**
- 5. Other Business**
  - i. Action List – 2022**

**03-71-22**

**L. Planning Division Action Items**

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

**03-72-22**

**M. Adjournment**

No further business being evident, the Chair adjourned the meeting at 10:59 p.m.



Nick Dupuis  
Planning Director



Laura Eichenhorn  
City Transcriptionist

**City Of Birmingham**  
**Special Meeting Of The Planning Board**  
**Thursday, March 31, 2022**  
City Commission Room  
151 Martin Street, Birmingham, Michigan

Minutes of the special meeting of the City of Birmingham Planning Board held on March 31, 2022.  
Chair Scott Clein convened the meeting at 7:30 p.m.

**A. Roll Call**

**Present:** Chair Scott Clein; Board Members Robin Boyle, Stuart Jeffares, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Jason Emerine; Student Representative MacKinzie Clein

**Absent:** Board Member Bert Koseck; Alternate Board Member Nasseem Ramin; Student Representative Andrew Fuller

**Administration:**

Nick Dupuis, Planning Director  
Laura Eichenhorn, City Transcriptionist

**03-73-22**

**B. Minutes**

None.

**03-74-22**

**C. Chair's Comments**

Chair Clein welcomed everyone to the meeting and reviewed the meeting's procedures.

**03-75-22**

**D. Review Of The Agenda**

**03-76-22**

**E. Unfinished Business**

None.

**03-77-22**

**F. Rezoning Applications**

None.

**03-78-22**

**G. Community Impact Study**

**1. 770 S. Adams – Request for a new 4-6 story mixed use building**

Chair Clein and Mr. Emerine recused themselves from Item G1 and H1 at 7:35 p.m., both citing business relationships with members of the applicant team.

Vice-Chair Williams assumed facilitation of the meeting. Vice-Chair Williams introduced the item.

PD Dupuis summarized the updates to the item.

Vice-Chair Williams and Mr. Share noted that the applicant's traffic consultant and the City's traffic consultant had satisfactorily resolved any potential traffic issues.

**Motion by Mr. Share**

**Seconded by Mr. Boyle to accept the Community Impact Study as provided and updated for the proposed development at 770 S. Adams with the following conditions:**

- 1. The applicant must submit details as to how they plan to mitigate noise, dust, debris, and other nuisances during the construction process;**
- 2. The applicant engage with City Staff to discuss the Worth Plaza.**

**Motion carried, 5-0.**

ROLL CALL VOTE

Yeas: Share, Boyle, Jeffares, Whipple-Boyce, Williams

Nays: None

**03-79-22**

**H. Site Plan & Design Review**

**1. 770 S. Adams – Request for a new 4-6 story mixed use building**

PD Dupuis summarized the updates to the item.

Randy Wertheimer of Hunter Pasteur spoke on behalf of the request. He stated:

- The remaining three residential units on Adams would be more similar to the townhomes on Brown than to All Seasons, which some Board members had previously compared the units on Adams to;
- The applicant was offering to make a \$100,000 contribution to the build-out of Worth Park, with no time restrictions;
- That if the City determines that additional pedestrian facilities on Adams are necessary, the applicant is willing to contribute \$20,000 towards those improvements;
- While there were differences of opinion regarding whether the Adams side of the project should feature some residential or be entirely commercial, the project would still serve as a catalyst for development in the Triangle either way.

In reply to Mr. Share, Mr. Wertheimer said the commitment for the \$100,000 and the \$20,000 contributions would run with the property, but he said that if the owners were ever to sell the property there could also be a condition that both amounts are contributed at that time. He said the hope is that the \$100,000 contribution would encourage the City to pursue the development of Worth Park sooner.

For final site plan and design review, Mr. Boyle asked the applicant to bring images, samples, and examples if available of the proposed synthetic landscaping materials.

In reply to Mr. Jeffares, Mr. Wertheimer said his team would provide the product specifications for the synthetic landscaping materials at final site plan as well.

Ms. Whipple-Boyce explained:

- While she appreciated the applicant's modifications to Adams since the original plan, she believes it is a mistake that there will not be shops and retail on Adams;
- The problem is that retail along Adams is not required by the ordinance the way she would like to see it;
- The Triangle Plan establishes a 'vision' that describes retail on the first floor and residential above it;
- The Board needs to review that aspect of the ordinance since the City will receive more applications for development in the Triangle in the future;
- It would be disappointing to see apartments on the first floor of other parts of Adams when retail could be there instead;
- This project, as proposed, misses the mark on the intent of the redevelopment of the Triangle, which is a failure on the City's part;
- This project technically satisfies the zoning requirements;
- She remained disappointed in the applicant's unwillingness to provide first-floor retail;
- She challenged the applicant along the way, and Adams received a slight increase activation, but the amenities moved to Adams will not draw in the public;
- Retail is viable on Adams, as evidenced by the retail from Woodward to Bowers;
- 300 people will be living in the building, next to a densely populated residential area, which establishes a significant customer base for any retail/commercial uses in the building;
- She believed the applicant was unwilling to add retail to Adams because they were unwilling to give up any of their parking to satisfy the retail requirements; and,
- This project could be perfect with the addition of retail on Adams.

Ms. Whipple-Boyce concluded by telling the applicants that they still have time to replace the residential on Adams with retail, and that she hoped they would.

Mr. Jeffares shared comments he stated he had written in advance. He explained:

- His comments would be similar to Ms. Whipple-Boyce's;
- The City needs to put more effort into making sure its plans come to fruition;
- He spent five years working in strategic planning with a Fortune 50 company, and he knows if further steps are not taken after a plan is completed then it is just a document that remains on a bookshelf;
- The ordinance does not define 'mixed use';
- The current proposal before the Board offers 2% retail, which technically complies with 'mixed use' but is really residential with minimal incidental retail;
- The zoning ordinance is not specific enough to deliver the directions the Triangle Plan set out;
- The City often uses SLUPs to deliver on goals when the ordinances are not specific enough, but they do not seem like the right tool in this case;
- The City has also not been proactive in achieving other goals set out in the Triangle Plan, such as acquiring land for public space or efficient parking;

- The Triangle Plan also calls for 'streets lined with pedestrian-oriented buildings', a 'vibrant, mixed-use neighborhood', 'brownstones and townhomes on local streets' - not primary streets;
- On primary streets the Plan calls for 'apartments and condominiums above offices and storefronts', but the ordinance has not been modified to require this;
- The Plan also calls for 'buildings oriented towards primary streets', but this project proposes a leasing office and a front door on a largely unused street;
- Of all the commercially-zoned property in the Triangle, this project alone represents 7%;
- This property is the largest parcel in the Triangle;
- There are 33 parcels in the Triangle that are .3 acres or larger;
- Of these parcels, about 25%, or 7.8 acres, could likely redevelop within the next 10-15 years;
- This project represents a quarter of that 7.8 acres, and is offering only one 4,000 sq. ft. space for retail out of an approximately 88,000 sq. ft. footprint;
- While the ordinance does not call for first-floor retail, the proposed three residential units on Adams are inconsistent with the area's current development;
- If one were to walk on Adams from Lincoln to where single-family homes begin, the street level is entirely commercial and retail;
- This proposal will stand out from its surrounding environs in a significant way;
- The City needs to review its ordinances, standards, and definitions to ensure that they reflect the vision of the area and master plans the City creates; and,
- Otherwise, the City is inefficiently using the time of its boards, Staff, and community.

Mr. Jeffares concluded by saying that while this project will be good, he agreed with Ms. Whipple-Boyce that this could be perfect with the addition of first floor retail. He said that allowing a project to provide 2% retail in exchange for two more floors is something the City needs to review. In light of his comments, Mr. Jeffares said he would not be voting to support the development.

Mr. Share addressed his colleagues, stating that it is not the developer's fault or responsibility that the City did not put into code things that the City may have wanted. He cautioned that the perfect should not be the enemy of the good in this case, and agreed with Mr. Wertheimer that the project will likely catalyze development in the Triangle. He said that many in the City believed that no development in the Triangle would occur without a public deck, and this project will occur without one. He said he would be supporting the project.

Mr. Boyle concurred with Mr. Share, saying he was concerned the Board was asking a private developer to accommodate goals the City itself did not implement. He said politics and financing were the reasons the Triangle Plan was not pushed forward at the time, and that the City should not hold the development back for the City's mistakes. He said that while he was disappointed as well, the development has improved immensely through discussion. Mr. Boyle stated he hopes this development will be a catalyst for development to the south of the area.

Vice-Chair Williams explained:

- The City did nothing towards developing Worth Plaza for 15 years, and that lack of implementation is not the developer's responsibility. The responsibility is on the City;

- The lesson to be learned from this development is that plans are not codes or ordinances. There has been a misconception during the 2040 Plan process that the Plan rezones properties. This project is a prime example of the fact that a plan alone does not change ordinance or code;
- He agreed with his colleagues that the City has not adequately ensured that its ordinances reflect its plans' visions, and that needs to be corrected going forward;
- The City should use the 2040 Plan process to update ordinances for the Triangle, citing Lincoln and Woodward as one area that will need ordinance changes to reflect the vision of the 2040 Plan;
- He said the City should now focus on getting its goals into ordinances quickly;
- The Commission could ask the Board to translate the vision of the Triangle Plan into appropriate ordinance and code immediately if so desired;
- When the City was looking for additional residential areas in the City that would not adversely affect single family residential, this was one of the designated areas;
- The developer choosing to locate residential in this area is a huge boon to the City; and,
- The City needs additional residential which this project in part provides.

He concluded that while he understood Ms. Whipple-Boyce's and Mr. Jeffares' concerns, he did not share the same level of concern regarding retail on Adams. He stated his decision would be governed by code and ordinance, and he agreed with Mr. Share on his points.

**Motion by Mr. Share**

**Seconded by Mr. Boyle to approve the Preliminary Site Plan for 770 S. Adams, based on a review of the site plans submitted and the requirements outlined in Article 7, Section 7.27 of the Zoning Ordinance, with the following conditions:**

- 1. The applicant must provide full screening details for all proposed mechanical units at Final Site Plan;**
- 2. That the applicant bring specific samples of proposed synthetic materials at final site plan for consideration of the Board, or revise the landscaping plan to include living plant material, or obtain a variance from the Board of Zoning Appeals;**
- 3. The applicant must submit revised plans showing a loading space that meets the requirements of Article 4, Section 4.24 (C) of the Zoning Ordinance;**
- 4. The applicant must submit lighting and material specifications, samples, photometric plan and all other required information for the proposed building to complete the Design Review at Final Site Plan;**
- 5. The applicant must comply with the requests of all City Departments;**
- 6. The applicant must engage with Staff with respect to Worth Plaza; and,**
- 7. That the applicant enter into an agreement with the City for the contribution of up to \$20,000 to mitigate potential pedestrian crossing issues on Adams Road in the future, and \$100,000 to be used in connection with the implementation of Worth Park.**

**Vice-Chair Williams asked the applicant to confirm that the language regarding the \$20,000 and \$100,000 contributions was acceptable.**

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**Mr. Wertheimer confirmed that the language regarding the \$20,000 and \$100,000 contributions was acceptable.**

**Motion carried, 4-1.**

ROLL CALL VOTE

Yeas: Share, Boyle, Whipple-Boyce, Williams

Nays: Jeffares

Vice-Chair Williams advised the applicant to consider Board comment regarding the three residential units on Adams in advance of the final site plan review.

**03-80-22**

**I. Special Land Use Permit**

**1. 220 Merrill – Request for new outdoor dining platform in Merrill St. right-of-way**

Chair Clein and Mr. Emerine returned at 8:23 p.m. Chair Clein resumed facilitation of the meeting at 8:23 p.m.

PD Dupuis presented the item.

Zaid Elia, owner of 220 Merrill, spoke on behalf of project.

In reply to Mr. Boyle, Mr. Elia stated that there have been no traffic incidents, accidents or police reports that would indicate an issue with the dining platform in its two years of operation.

Steve Ferich, In-House Valet, described 220 Merrill's valet operations.

In reply to Mr. Share, Mr. Ferich said that of the valet operations he runs in the City 220 Merrill is one of the least challenging.

In reply to Mr. Emerine, Mr. Elia stated he has an easement with the owners of the private alley to the south and the circular area allowing shared access.

In reply to Board inquiry, Mr. Elia stated that the rail and ramp are interior to the platform and do not extend onto the sidewalk.

In reply to Ms. Whipple-Boyce, PD Dupuis said he would double-check with the Building Department to determine whether there are any concerns about the distance between the railing on the platform and the backs of the chairs.

In reply to Mr. Jeffares' comment regarding the total amount of proposed outdoor dining, Mr. Elia stated that compared to some other operators in the City 220 Merrill has a lower ratio of indoor to outdoor seating. He opined that the proposed outdoor dining was proportional to the size of the restaurant overall.

Mr. Boyle said that the view of the platform coming off of Old Woodward might help slow traffic coming in that direction, and would add vitality to the street. He said he had no preference for the color of the outdoor seating and that 220 Merrill's valet operations had been well-explained. He said he would support the request.

Mr. Williams concurred with Mr. Boyle that drivers are likely to be more cautious when seeing an outdoor dining deck, and that the valet operations were well-explained. He said he has dined on 220 Merrill's dining deck and found no problem with its navigability. He said he was glad to know the ramp is within the deck and does not extend to the sidewalk.

Ms. Whipple-Boyce said the applicant should maintain the pink for the outdoor seating if they prefer, praising the uniqueness of the choice. She concurred with Messrs. Boyle and Williams that the platform slows traffic and that it has worked well in its two years of operation. Since the platform will be smaller than before, she expressed concern about the same four-tops fitting well. She said that the drawings need to be updated to accurately reflect the proposal. She said she was inclined to support it but would like to see it drawn as intended.

Mr. Emerine said he concurred with Messrs. Boyle and Williams. He said he was not worried about the loss of parking spaces given 220 Merrill's proximity to the Pierce Street Garage. He echoed Ms. Whipple-Boyce's comment that the drawings should be revised to accurately reflect the proposal. He said he was supportive of the project.

Mr. Jeffares said he was unsure about wheelchair or scooter maneuverability on the platform if the ramp is interior. He said he was more concerned about speeding on the street than some of his colleagues, but that increased police enforcement could help. He said the platform seemed to work well when it was in operation.

There was a discussion regarding whether the platform would be accessible. A number of Board members expressed concern that it would not be, given its size and layout.

Mr. Emerine noted that since 220 Merrill's other outdoor dining area is accessible, the platform may not need to be accessible.

Chair Clein said he just wanted to ensure that the applicant was aware that accessibility of the platform may be an issue.

After brief discussion, the Board also concurred that the necessary revisions to the site plan could be administratively approved before it goes to the Commission.

**Motion by Ms. Whipple-Boyce**

**Seconded by Mr. Jeffares to recommend approval to the City Commission for the Special Land Use Permit Amendment for 220 Merrill – 220 Restaurant – subject to the conditions of Final Site Plan and Design Review.**

**Motion carried, 7-0.**



**VOICE VOTE**

Yeas: Share, Boyle, Whipple-Boyce, Williams, Emerine, Clein, Jeffares

Nays: None

**03-81-22**

**J. Site Plan & Design Review**

**1. 220 Merrill – Request for new outdoor dining platform in Merrill St. right-of-way**

Discussed during Item I1.

**Motion by Mr. Boyle**

**Seconded by Mr. Williams to recommend approval to the City Commission for the Final Site Plan and Design Review for 220 Merrill – 220 Restaurant – with the following conditions:**

- 1. The applicant must obtain an Outdoor Dining Permit and enter into a contract with the City for the SLUP Amendment;**
- 2. All outdoor activity must cease at the close of business;**
- 3. The applicant must obtain a favorable recommendation from the Advisory Parking Committee prior to City Commission review;**
- 4. The applicant must submit a Design Review application to the Historic District Commission prior to City Commission review;**
- 5. The applicant must comply with the requirements of all departments;**
- 6. The applicant must submit, for administrative review, a site plan that adheres to the requirements as set by the discussion tonight.**

**Public Comment**

**In reply to Mr. Elia, the Board had no direction regarding the color of the outdoor seating.**

**Motion carried, 7-0.**

**VOICE VOTE**

Yeas: Share, Boyle, Whipple-Boyce, Williams, Emerine, Clein, Jeffares

Nays: None

**03-82-22**

**K. Study Session**

None.

**03-83-22**

**L. Miscellaneous Business and Communications**

- 1. Pre-Application Discussions**
- 2. Communications**

- 3. Administrative Approval Correspondence**
- 4. Draft Agenda**
- 5. Other Business**
  - i. Action List – 2022**

**03-84-22**

- L. Planning Division Action Items**
  - a. Staff Report on Previous Requests**
  - b. Additional Items from tonight's meeting**

**03-85-22**

**M. Adjournment**

No further business being evident, the Chair adjourned the meeting at 9:15 p.m.



Nick Dupuis  
Planning Director



Laura Eichenhorn  
City Transcriptionist

March 28, 2022

Nicholas Dupuis  
Planning Director  
City of Birmingham, MI.

Re: 191 Chester Street Trash enclosure

Dear Mr. Dupuis,

Please be advised that the Surnow Company respectfully requests to be removed from the upcoming Planning Commission meeting on April 13<sup>th</sup>. We will no longer be pursuing the proposed trash enclosure for the 191 Chester building.

Thank you for your assistance through this process.

Regards,



Kevin Biddison, AIA  
Biddison architecture p.c.



# MEMORANDUM

Planning Division

**DATE:** April 13, 2022

**TO:** Planning Board Members

**FROM:** Nicholas Dupuis, Planning Director

**SUBJECT:** Outdoor Dining Ordinance – Public Hearing

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23<sup>rd</sup>, 2021, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

### **Study Session #1 Summary**

On July 14<sup>th</sup>, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

### **Study Session #2 Summary**

On August 11<sup>th</sup>, 2021, the Planning Board reviewed another high-level report in which the Planning Division presented various departmental comments on outdoor dining, a national outdoor dining ordinance review, conversations with local cities, and a study of national organization input and trends. The Planning Division also provided some public feedback from Engage Birmingham, which surveyed the public for their opinion of the COVID-19 temporary outdoor dining expansions, which were overwhelmingly positive. Moving forward, the Planning Board expressed interest in getting into more detail on seasonal/year round dining and its effect on street activation, public versus public space, the potential for regulating different restaurants/licenses differently, and defining and establishing a purpose of outdoor dining in the City.

### **Study Session #3 Summary**

On September 9<sup>th</sup>, the Planning Board discussed the report which contained comments from the Advisory Parking Committee, common issues with outdoor dining patios, information on the temporary COVID-19 patios, and also discussed the purpose of outdoor dining. In addition, the Planning Board was able to review an example of how the outdoor dining ordinance could look based on comments up to that point. Ultimately, the conversation started to get more granular with specific ordinance-related ideas ranging from an official stance on enclosures to material guidelines to patio placement. There were several other requests for information including a review of Michigan Liquor Control Commission guidelines for outdoor dining, a review of the concept of windbreak versus wall, and the possibility of regulating outdoor dining by zones.

### **Study Session #4 Summary**

On September 23<sup>rd</sup>, the Planning Board discussed the MLCC rules for outdoor dining patios, the concept of a windbreak and whether or not they should be permitted, and also explored the different zoning districts in which outdoor dining is permitted. These topics led to more conversation about how overhead weather protection will interact with said overhead coverings, and what typed of overhead protection the Planning Board should permit. The Planning Board expressed an interest in taking a deeper dive into overhead weather protection and reviewing different options.

### **Study Session #5 Summary**

On October 27<sup>th</sup>, 2021, the Planning Board focused much their conversation on overhead weather protection and which types may be considered within the new ordinance language, and what different issues might arise with the different styles. In addition, the Birmingham Fire Chief Paul Wells gave a brief overview of the fire code as it relates to overhead weather protection, and offered some guidance to the Planning Board regarding fire suppression and other aspects of outdoor dining. In addition to overhead weather protection, the Planning Board provided some clear direction on the subjects of windbreaks, year-round dining, and the role of outdoor dining decks.

### **Study Session #6 Summary**

On December 8<sup>th</sup>, 2021, the Planning Board reviewed comments regarding outdoor dining from the Birmingham Shopping District (BSD). In addition to the BSD comments, the Planning Board also reviewed some updated comments from the Fire Department based on their additional research into the Fire Code. To round out the meeting, the Planning Board outlined several items that they feel need further discussion/decision moving forward:

- Whether establishments with liquor licenses and establishments without liquor licenses should be handled differently;
- Whether there should be on-season and off-season dates for outdoor dining, and what should happen to furniture and other equipment on public property if there are different 'seasons';
- Whether establishments should be permitted outdoor dining on both a sidewalk and a deck if requested, and if not, what the City wants to incentivize instead;
- What types of coverings and equipment should be allowed, and how specific the standards should be in terms of material, location, and other considerations;
- Whether outdoor dining should be permitted to extend beyond the storefront of an establishment, and if so, what the limitations should be;
- Whether outdoor dining decks should be limited to a certain number per block; and,
- Whether outdoor dining in public space and outdoor dining in private space should be regulated differently.

### **Study Session #7 Summary**

On January 12, 2022, the Planning Board discussed the several questions posed in the previous study session and come to a conclusion on most of them. In general, the Planning Board decided on a short extension to the regular outdoor dining season, treating all outdoor dining establishments alike, enhanced material and appearance standards, and allowing expansion of patios with neighbor consent. During this study session, the Planning Board also reviewed seating data for the different outdoor dining establishments, and was provided a map of all outdoor dining in the City, which is heavily concentrated downtown. Ultimately, the Planning Board asked Staff to take their comments and work them into a new revised set of ordinance amendments to review on February 9, 2022.

### **Study Session #8 Summary**

On February 9, 2022, the Planning Board worked on fine-tuning a set of ordinance amendments to try to finalize a few of their discussion points, and make sure the intent of the original direction of the City Commission was met. The Planning Board made several revision requests that were aimed at clarifying different aspects of the proposed ordinance, but especially relating to the barriers and enclosure regulations. In addition, the Planning Board made some requests to review various site plans from approved outdoor dining patios in the City to help guide the final discussions on the placement of patios, and other design limitations.

### **Study Session #9**

On March 9, 2022, the Planning Board took another long look at the proposed ordinance language and offered several minor changes to the text in attempts to offer further clarity and consistency throughout the ordinance. In addition, the Planning Board discussed the remaining issues that were in need of direction. In short, the Planning Board decided that they did not wish to restrict outdoor dining patios to one contiguous patio, but did express interest in restricting platform dining to the street with no impingement on the furniture zone. Additionally, the majority of the Planning Board did not feel as though fixed awnings were appropriate over outdoor dining platforms, and sought additional language to restrict overhead weather protection to umbrellas on platforms. Finally, the Planning Board did not feel as though the numbers of platforms per block should be restricted.

### **Public Hearing**

On March 9, 2022, the Planning Board moved to set a public hearing date of April 13, 2022 for a final review and recommendation to be forwarded to the City Commission. The Planning Division has updated the proposed ordinance language based on the Planning Board comments, but has also re-circulated the language to each department, as well as the City Attorney to ensure that the language addressed their concerns, and will provide consistent and enforceable regulation. Please see the final draft of the proposed ordinance language below.

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.44, OUTDOOR DINING STANDARDS, TO PROVIDE AN APPROPRIATE BALANCE FOR OUTDOOR DINING PATIOS ACROSS THE CITY, AND TO ENCOURAGE BETTER SPACES TO SUPPORT PUBLIC HEALTH, ACTIVATE PUBLIC SPACE, FOSTER ECONOMIC DEVELOPMENT, SAFEGUARD THE USE OF PUBLIC PROPERTY, AND PROVIDE FLEXIBILITY FOR CURRENT TRENDS AND FUTURE DEMANDS FOR OUTDOOR DINING.

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**Article 4, Section 4.44 – Outdoor Dining Standards**

This Outdoor Dining Standards section applies to the following districts:



The following outdoor dining standards apply:

- A. Purpose and Intent: The purpose of this section is to provide harmonious outdoor dining design in order to support public health, activate public space, foster economic development, safeguard the use of public property, and provide flexibility for current trends and future demands for outdoor dining.
  
- B. Outdoor Dining – General: Outdoor dining is permitted immediately adjacent to the principal use, subject to review by the Planning Board, or by the Planning Division at the discretion of the Planning Board, and the conditions below. For the purposes of this section, outdoor dining facility shall mean patios and/or platforms.
  - 1. All outdoor activity including cleaning, maintenance and closing procedures must cease at the close of business or as noted in subsection 2.
  - 2. When an outdoor dining facility is immediately adjacent to any single-family or multiple-family zoned residential district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.
  - 3. Reviews of outdoor dining facilities shall include, but are not limited to, the following elements: tables, chairs, umbrellas, portable heating elements, barriers, service stations, landscaping/plantings, awnings, canopies, lighting, host/hostess stands, and entertainment.



4. Outdoor dining facilities may be permitted to extend in front of neighboring properties or tenant spaces with the written permission of the property owners(s) affected and with Planning Board approval.
5. Outdoor dining facilities may be permitted on public property only with a valid Outdoor Dining License, provided that the following conditions are met:
  - i. Approval of an Outdoor Dining License shall be contingent upon compliance with all city codes, including any conditions required by the City or the Planning Board in conjunction with Site Plan approval.
  - ii. Operators of outdoor dining facilities shall be responsible for snow and ice removal, and shall remove snow and ice in a manner consistent with the regulations of the Department of Public Services.
  - iii. All outdoor dining facility elements such as railings, planters, tables, chairs, heaters, umbrellas, and the like must be stored indoors each night between January 1 and March 31 to allow for complete snow and ice removal.
  - iv. Outdoor dining patios located in an alley or passage that contains vehicular traffic are only permitted April 1 through December 31.
  - v. An ADA compliant platform may be erected in the on-street parking space(s) immediately in front of an eating establishment to create an outdoor dining facility from April 1 through December 31, subject to an additional review by the Advisory Parking Committee.
6. All outdoor facilities shall be designed to meet the requirements of this section, as well as all applicable building and fire codes.

C. Outdoor Dining – Design: All outdoor dining facilities are subject to the following design standards:

1. All tables and chairs provided in the outdoor dining facility shall be constructed primarily of metal, wood, or a material of comparable quality as determined and approved by the Planning Board.
2. Outdoor dining facilities shall provide and service refuse containers within the outdoor dining facility and maintain the area in good order. Public trash receptacles are not permitted to be utilized by outdoor dining facilities.
3. Outdoor dining facilities shall not contain enclosures as defined in Article 9, Section 9.02 of the Zoning Ordinance.
4. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 5 ft.
5. No outdoor dining facility is permitted within the furnishing zone of a streetscape. Outdoor dining platforms within the adjacent street or parking space(s) shall be designed to be flush with the curb, and may not extend beyond the curb into the furnishing zone except to accommodate accessibility requirements.

6. No such establishment shall erect or install permanent fixtures in the public right-of-way.
7. Table umbrellas or other overhead weather protection shall not
  - i. Impede sight lines into a retail establishment;
  - ii. Obstruct pedestrian flow within the outdoor dining facility;
  - iii. Obstruct pedestrian or vehicular traffic flow outside the outdoor dining facility or extend beyond the limits of the facility; or
  - iv. Contain signage or advertising.
8. Fixed or freestanding awnings are not permitted within outdoor dining platforms.
9. Barriers defining outdoor dining facilities shall be constructed of a quality and durable material, and shall be maintained and placed in a consistent and organized fashion. Barriers may not exceed 42 inches in height except as permitted in subsection 10.
10. Windbreaks are permitted within outdoor dining facilities and shall be affixed to, or integrally designed within a barrier. The total combined height of a barrier and windbreak shall not exceed 60 inches as measured from grade. Windbreaks must be constructed of a clear, rigid and durable material. Eisenglass and other vinyl-based materials are prohibited.
11. Portable heating elements must be maintained and kept in an orderly fashion and in accordance with all applicable fire codes. Propane or other fuels may not be stored on public property, and are subject to the Storage and Display Standards outlined in Article 4, Section 4.67 of the Zoning Ordinance.
12. All service functions and ancillary elements including, but not limited to, trash receptacles, service stations or host/hostess stands must be located within the approved outdoor dining facility, contained, and kept in a neat and orderly fashion. Service stations and host/hostess stands may not exceed 4 feet in height. The storage of dirty dishware is prohibited.

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, SECTION 3.04 (C), SPECIFIC STANDARDS, TO REDUCE REDUNANCY AND PROVIDE CONSISTENT OUTDOOR DINING REGULATIONS.

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**Article 3, Section 3.04 – Specific Standards (Downtown Overlay District)**

C. Building Use: Buildings shall accommodate the following range of uses for the various designations on the Regulating Plan of the Downtown Birmingham Overlay District:

1. ...
2. ...
3. ...
4. ...
5. ...
6. ...
7. ...
8. ...
9. ...

10. Bistros are permitted with a valid Special Land Use Permit with the following conditions:

- a. No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
- b. Alcohol is served only to seated patrons, except those standing in a defined bar area;
- c. No dance area is provided;
- d. Only low key entertainment is permitted;
- e. Bistros must have tables located in the storefront space lining any street, or pedestrian passage. **If the storefront area is not feasible for outdoor dining, alternative outdoor dining facility placement may be considered by the Planning Board;**
- f. **All outdoor dining facilities are subject to the requirements located in Article 4, Section 4.44 of this Ordinance;**

- g. A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1 foot and 8 feet in height; **and**
- h. All bistro owners must execute a contract with the City outlining the details of the operation of the bistro.; ~~and~~
- i. ~~Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, defined platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.~~
- j. ~~Enclosures facilitating year round dining outdoors are not permitted.~~
- k. ~~Railings, planters or similar barriers defining outdoor dining platforms may not exceed 42" in height.~~
- l. ~~Outdoor rooftop dining is permitted with the conditions that surrounding properties are not impacted in a negative manner and adequate street level dining is provided as determined by the Planning Board and City Commission. Rooftop dining seats will count towards the total number of permissible outdoor dining seats.~~

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 3, SECTION 3.16, SPECIFIC STANDARDS, TO REDUCE REDUNANCY AND PROVIDE CONSISTENT OUTDOOR DINING REGULATIONS, AND TO PERMIT OUTDOOR DINING IN ACTIVE VIAS.

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**Article 3, Section 3.16 – Specific Standards (Via Activation Overlay District**

- A. Permitted and Prohibited Uses: To enhance the amenity and character of vias, **and** to enhance visual interest and encourage surveillance of urban spaces, active uses should be provided at the ground floor level along the majority of the edges of buildings located adjacent to vias. While buildings should accommodate these uses, care must be taken to avoid conflict with pedestrian movement in the via. To specifically encourage the activation of vias, the following uses are permitted within Active, Connecting, and Destination Vias:

1. Retail sales and display;
2. Public plazas and informal gathering spaces;
- 3. Outdoor Dining;**
4. Art display; and
5. Community Gardens.

In addition, the following ~~uses are~~ **use is** also permitted within Connecting and Destination Vias:

- ~~1. Outdoor dining; and~~
2. Special Events.

The following are specifically prohibited in all vias:

1. Automatic food and drink vending machines outdoors;
2. Drive-in facilities or any commercial use that encourages patrons to remain in their automobiles while receiving goods or services;
3. Unscreened trash receptacles; and
4. Unscreened outdoor storage.

B. ...

C. ...

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

\_\_\_\_\_  
Therese Longe, Mayor

\_\_\_\_\_  
Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 9, SECTION 9.02, DEFINITIONS, TO ADD DEFINITIONS FOR ENCLOSURE, OUTDOOR DINING PATIO, AND PERMANENT FIXTURE.

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**Article 9, Section 9.02 – Definitions**

**Enclosure (outdoor dining):** A vertical wall, panel, or other material that extends above 60 in. in height which provides extended relief from weather and impedes physical and/or visual access to the outdoor dining space. For the purposes of this definition, enclosure does not include exterior building walls.

~~**Outdoor Café:** An outdoor area accessory to an existing restaurant operation designated for consumption of food prepared within the restaurant and subject to the provisions of this ordinance.~~

**Outdoor Dining Patio:** A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the establishment and subject to the provisions of this ordinance.

**Outdoor Dining Platform:** A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the establishment that is located in a parking space and/or street and subject to the provisions of this ordinance.

**Permanent Fixture (outdoor dining):** Any element within an outdoor dining patio containing a foundation or other rigid attachment that prevents removal or that which requires extensive modifications to the public right-of-way.

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk



# **Planning Division Reports**

*(Chronological Order)*



**DATE:** July 14<sup>th</sup>, 2021

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #1

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23<sup>rd</sup>, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restauranteurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restauranteurs do not have to continue to adapt to changing policies.

At this early stage, the Planning Division would like to begin with a high-level general review of outdoor dining beginning with research into what “good” outdoor dining may look like. By beginning with an example driven discussion, the Planning Division hopes to work towards several of the goals listed above and guide more pointed discussions in future study sessions.

Discussing personal experiences with outdoor dining across the world was a large part of the Planning Board and City Commission discussions prior to embarking on this study session. Considering this approach, the Planning Division reviewed [OpenTable's annual list 100 Best Al Fresco Restaurants in America for 2019](#). Naturally, California, Florida and Hawaii make up 67% of the list. However, the Midwest and Northeast (similar weather conditions to Birmingham) have strong representation on the list, making it an interesting place to start. Please see the following page for images of several outdoor dining spaces from restaurants present on the list.

Upon researching many of the outdoor dining patios on the list, the Planning Division made several observations:

1. Overhead coverings are common in the form of umbrellas, awnings, and pergola-type structures. Other covering methods such as canvas shade sails, retractable fabric shade canopies, and even trees/vegetation were observed as well.
2. Several rooftop patios made the list.
3. Heaters, lights, and fire tables/pits were very common.
4. Dining chairs appeared to be constructed of a myriad of materials, including plastic, wicker, and fabric.
5. Full enclosures (roof/covering plus walls or partial walls) were rare. Most cases of perceived enclosures included variables such as below-grade placement, placement next to building facades or screening from nuisances such as parking areas.
6. The majority of outdoor dining patios contained greenery and plantings.
7. Patio placement was observed in public and private property, and patio design elements were consistent between those that were on both.





**Cecconi's – Brooklyn, NY**



**Farmers Fishers Bakers – Washington D.C.**



**El Five – Denver, CO**



**The Mooring Restaurant – Newport, RI**



**Campfire – Carlsbad, CA**



**The Pink Door – Seattle, WA**



Similar observations were made while researching opinions of the “best” outdoor dining in Michigan. [Pure Michigan's Top Outdoor Patios for Dining in Michigan](#) and [M-Live's list of Michigan's Best Outdoor Dining](#) highlight several dining establishments that contain many of the same features.



On a more local level, Southeast Michigan contains several comparable cities with outdoor dining. The Planning Division was able to locate several cities that created specific regulations for outdoor dining within their Zoning Ordinances:

- [Berkley](#)
- [Royal Oak](#)
- [Plymouth](#)
- [Rochester Hills](#) (pg. 77)
- [Lake Orion](#) (pg. 60)

Other cities and Zoning Ordinances such as Northville, Detroit, Ferndale and Ann Arbor were also researched. However, the Zoning Ordinances of these cities either did not contain any specific ordinance language regarding outdoor dining, or proved too difficult to locate at this time. Of the above cities that yielded results, only one or two had detailed regulations regarding outdoor dining within their Zoning Ordinance. If requested, further research into the Zoning Ordinance regulations of other cities, local or national, will be provided for review. As a consequence, no

examples of different outdoor dining regulations for private versus public property, enclosures, maintenance, or other items from the list of goals above were discovered.



So how does the feedback from the City Commission, the Planning Board's current list of goals for the outdoor dining discussion, and the above high-level research relate to the current Outdoor Dining ordinance? At this time, there are outdoor dining standards spread across several areas of the Zoning Ordinance:

- [Article 4, Section 4.44 – Outdoor Dining Standards](#)
- [Article 3, Section 3.04 \(C\)\(10\) – Bistros](#)
- [Article 3, Section 3.14, 3.16 – Via Activation Overlay](#)
- [Article 9, Section 9.02 – Definitions \(Bistro, Outdoor Café\)](#)

This outdoor dining study affords an opportunity to ensure that ordinance language is consistent throughout, and addresses the issues of potentially regulating different restaurant and/or liquor license types (Bistro, Class C, Economic Development, Theaters & Hotels) separately, or affording them all the same outdoor dining standards, at least in terms of design. For example, rooftop dining is permitted for bistro license holders, but is not mentioned in the overall outdoor dining standards. Similarly, the bistro ordinance language prohibits enclosures facilitating year-round dining outdoors, but the Outdoor Dining Standards do not regulate enclosures.

Considering the information above, and before attempts are made at amending any zoning ordinance language, the Planning Division suggests a discussion based on the following questions and requests that the Planning Board provide some direction as to which items to move forward with for the next study session, including any that are not listed:

- Does the Planning Board want to see enclosures? If so, during what season(s)? Additionally, the City should define "enclosure" as a part of this study. This has also been advised by the City Attorney.
- Should restaurants be permitted to extend in front of neighboring properties on the sidewalk? In the street?
- Should a survey be created and sent to property owners to solicit feedback on several key discussion points before the Planning Board begins to draft ordinance amendments?
- Should the Planning Division do a broader ordinance search for other areas of the Midwest and/or Northeast? What should we be looking for?





# MEMORANDUM

Planning Division

**DATE:** August 11<sup>th</sup>, 2021

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #2

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23<sup>rd</sup>, 2021, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;



- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

### **Study Session #1 Summary**

On July 14<sup>th</sup>, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

### **Study Session #2**

#### **Departmental Comments**

Initially, the Planning Board requested that staff solicit comments from the Department of Public Services (DPS) and Birmingham Shopping District (BSD) regarding outdoor dining and its different aspects from their point of view. From the Department of Public Services, any issues surrounding snow removal, streetscape maintenance, or other relevant issues observed from DPS were topics of interest. As for the BSD, the Planning Board wanted to determine if expanded outdoor dining had any impact on neighboring, non-restaurant retail uses...positive or negative. During the discussion at the first study session, the Planning Board requested to include the Building Division, Fire Department, Police Department and Engineering Division for comments pertaining to their professions and expertise. Full comments from each department are attached.

- **Department of Public Services**  
In general, the Department of Public Services has some issues with snow removal and streetscape maintenance. They noted that although the plows have managed to get by without major incident thus far, snow and ice accumulates in the hard-to-reach areas, which necessitates more salt and more maintenance to mitigate the hazard. In addition, although private businesses are responsible for clearing their own platforms or dining areas, the snow is often placed right back into the street or sidewalk, which creates more of the same conditions noted above. As far as streetscape maintenance, DPS notes that tree pruning/trimming becomes challenging while working around platforms and patios, and these dining areas often get in the way of other streetscape programs such as hanging baskets, tree lighting, and possibly even landscaping beds in the future.

- **Birmingham Shopping District**

The Birmingham Shopping District will make this a discussion item at their Board meeting in September. Comments will be provided to the Planning Board thereafter.

- **Engineering Division**

The Engineering Division provided important comments relating to stormwater, infrastructure elements such as fire hydrants, manhole covers, drains, and catch basins, and patio placement. For dining platforms specifically, Engineering requires a channel between the curb and the deck structure for the passage of stormwater during rain events. Large rain events like those we have experienced recently (and will continue to experience) may exacerbate any issues with drainage and the placement of storm sewers and other infrastructure. Furthermore, they indicate that these patios should have provisions in place for emergency events such as water/sewer main repairs. As far as patio placement, Engineering noted that a 5 ft. clear path should be maintained, but also explained that traffic lanes should not be impeded for larger vehicles such as emergency vehicles and busses, and that sign lines may be impacted by dining patios.

- **Building Division**

As far as Building Division comments go, they note that much of the outdoor dining elements, from patios to enclosures/coverings, must be built to the standards of the Michigan Building Code. In addition, the Building Division outlined some issues with encroachment into the pedestrian path of umbrellas, tents, awnings etc. as well as important points about the Michigan Plumbing Code and employee use of the pedestrian clear path.

- **Police Department**

The Police Department has indicated that they do not have many issues with outdoor dining, nor concerns about any changes at this time. There has been no loss of revenue from the parking meters for outdoor dining platforms, as the owners of the platforms pay a fee to cover the costs. Additionally, they have not considered the loss of parking spaces as an issue at this time.

- **Fire Department**

The Fire Department comments revolved heavily around heating elements, structures/coverings, and access for emergencies. When it came to portable outdoor heating elements, there are a laundry list of requirements that must be followed to meet the Fire Codes. These regulations include the size and storage of fuel tanks, clearance, and safety devices such as fire extinguishers and carbon monoxide detectors. In terms of structures/coverings, the Fire Department requires flame retardant certificates regardless of the presence of heating elements. For those structures attached to buildings, the Fire Department may require the facility to contain fire suppression.

## **National Ordinance Review**

The Planning Board expressed interest in finding out what other areas of the country may have ordinance wise. These areas include the Midwest and east coast, but also other areas with weather conditions that may necessitate unique outdoor dining solutions such as Colorado, Seattle, and warm weather cities. Several cities and the relevant facets of their Zoning Ordinances are provided below. In general it appears that most all cities require review of outdoor dining

proposals on both private and public space. Full enclosures of outdoor dining do not appear to be permitted on public space in any city reviewed.

- [Elmwood Park, IL](#) (Chicago Area)
  - Parking requirements for outdoor dining which requires the greater of one parking space for every two seats or 3.5 parking spaces per 100 square feet of indoor and outdoor dining area.
- [Highland Park, IL](#) (Chicago Area)
  - Table and chair limits determined by City Manager.
  - Temporary barrier required to keep tables and chairs from migrating into the requires 5 ft. clear path.
  - Tables and chairs removed every night.
- [Oak Brook, IL](#) (Chicago Area)
  - No live entertainment.
  - 5 ft. pedestrian path.
- [Columbus, OH](#)
  - "Outdoor patio" means an outdoor area, open to the air at all times, that is either: enclosed by a roof or other overhead covering and not more than two walls or other side coverings; or has no roof or other overhead covering at all regardless of the number of walls or other side coverings.
  - Parking is required for dining patios at a rate of 50% of ratio required for primary structure.
- [Edina, MN](#) (Minneapolis Area)
  - The patio shall not be enclosed in such a manner that the space becomes an indoor area.
  - Patio screening may be required if the premises is adjacent to a residential district.
- [Fishers, IN](#) (Indianapolis Area)
  - Outdoor dining areas shall be adjacent to their tenant space.
- [Columbia, MO](#) (St. Louis Area)
  - Outdoor patio plan with requirements to include any existing light poles, sidewalk grates, parking meters, or other facilities located in the right-of-way.
  - Any tables, chairs, posts, cordons or other furniture be portable and not fastened or affixed to or over the public sidewalk unless the owner has obtained right-of-use approval from the city council.
- [Arvada, CO](#) (Denver Area)
  - Outdoor dining areas shall not be located within 100 feet of a residential zoning district.
  - Outdoor dining areas are allowed and shall be set back as required for the principal building. Outdoor dining on public property permitted within specific district.
- [Golden, CO](#) (Denver Area)

- Portable seating, movable chairs, tables for cafes and other furniture should be of substantial materials; preferably metal or wood rather than plastic.
- Permanent outdoor seating is recommended in and along all publicly-accessible pathways and spaces.

### **Local Strategies**

Staff reviewed Ordinance requirements for local cities including Royal Oak, Rochester, Ferndale, Berkley, Northville, and Plymouth for the way outdoor dining was handled prior to the Covid-19 pandemic. The Planning Division was also able to speak with staff or an elected official from each of the localities. All cities mentioned above require board review and approval for restaurants proposing outdoor dining on private and/or public space. The only City that allows restaurants to rent an on-street parking space for outdoor dining is Northville. Full enclosures for outdoor dining on public property are not allowed in any of the cities mentioned. Rochester and Ferndale said they would allow a restaurant to have an enclosure such as a tent, igloo, or greenhouse on private property. Examples of private outdoor enclosures in Ferndale include igloos at Detroit Fleet and a tent on Rosie O'Grady's patio. Enclosure material on private space is not tightly regulated. The Planning Director of Berkley indicated full enclosures were not permitted on private property. In regards to placement, the outdoor dining on public property for all cities mentioned is required to stay within the frontage lines of the business, it may not extend in front of neighboring properties.

As in Birmingham, a number of Ordinance regulations mentioned above for outdoor dining were relaxed in a temporary resolution during the Covid-19 pandemic. All of the cities experimented with outdoor dining for on-street parking spaces and some allowed enclosures for outdoor dining on public sidewalks and/or streets. A number of the resolutions were extended into winter time 2021-2022 for the sampled cities and will be reviewed for what to extend, what to get rid of, and what to keep indefinitely.

### **Downtown/Restaurant Organizations**

The Planning Division looked to various national and local associations or organizations that could potentially provide some information on trends and happenings within national or local communities that may help guide discussions regarding outdoor dining in Birmingham. It is worth noting that in recent news, blogs or publications from these groups, it was difficult to separate outdoor dining and the COVID-19 pandemic. However, the Planning Board did indicate that they wish to discuss the temporary COVID-19 outdoor dining expansions that were built in Birmingham. Additionally, Engage Birmingham survey results (attached) appeared to indicate that many residents and business owners in Birmingham were supportive of the various expansions and/or enclosures that were erected in the City.

- **[Michigan Downtown Association](#)**

The Michigan Downtown Association has also provided some opinions on outdoor dining as an attraction for a downtown. In a 2021 article about [creative ways to bring residents downtown this summer and boost economic growth](#), it was noted that the Michigan Economic Development Corporation has supported outdoor dining expansion efforts across the state through Match on Main funding. Restaurants have seen the value of a quality outdoor dining space and have been investing in such to use into the future, and potentially year-round.

- [Main Street America](#)

Main Street America is an organization “committed to strengthening communities through preservation-based economic development in older and historic downtowns and neighborhood commercial districts.” Digging into their website, the Planning Division found an interesting article based on a 2021 Main Street Forward Award Winner in the Argenta District in North Little Rock, Arkansas. The award was given based on the efforts to create the Argenta Outdoor Dining District, a designated outdoor seating area that has helped local restaurants stay in business despite the pandemic. Although created for the pandemic, the district has plans underway to reopen in the spring. “Given its success, city leaders want to keep the district going even after the pandemic recedes, and Argenta’s restaurants are inspired to continue regular meetings to ensure the neighborhood’s future as a culinary destination.”

- [National Restaurant Association](#)

In general, the National Restaurant Association is an important resource in understanding trends and data regarding the restaurant industry. In reading through two documents, “2021 Restaurant Trends” and “Restaurant Industry 2030” (both attached), it was apparent that this particular group do not appear to be overly concerned about outdoor dining. Interestingly enough, this group found that restaurants would need to dedicate more space and capitol to *off-premise consumption* (i.e. takeout) as opposed to on premise indoor or outdoor dining. Additionally, when it comes to weather volatility, the group is finding that the concern lies in supply chains and food costs as opposed to protecting diners with coverings or enclosures.

- [Independent Restaurant Coalition](#)

The Independent Restaurant Coalition was created to “provide a strong, unified voice on legislative, regulatory, and policy issues that affect the restaurant industry; and provide advocacy, advice, networking and information to members.” In obtaining data from this group (attached), it is clear that the restaurant industry is an important industry that has unique struggles when it comes to situations like the pandemic. Restaurants and bars have large economic impacts in business and job creation, which could benefit from new outdoor dining regulations that could possibly expand outdoor dining, or add more comfort to outdoor dining patios.



# MEMORANDUM

Planning Division

**DATE:** September 9<sup>th</sup>, 2021

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #3

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

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### **Study Session #1 Summary**

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### **Study Session #2 Summary**

On August 11<sup>th</sup>, 2021, the Planning Board reviewed another high-level report in which the Planning Division presented various departmental comments on outdoor dining, a national outdoor dining ordinance review, conversations with local cities, and a study of national organization input and trends. The Planning Division also provided some public feedback from Engage Birmingham, which surveyed the public for their opinion of the COVID-19 temporary outdoor dining expansions, which were overwhelmingly positive. Moving forward, the Planning Board expressed interest in getting into more detail on seasonal/year round dining and its effect on street activation, public versus public space, the potential for regulating different restaurants/licenses differently, and defining and establishing a purpose of outdoor dining in the City.

### **Study Session #3**

#### **Advisory Parking Committee Comments**

During the August 4<sup>th</sup>, 2021 meeting of the Advisory Parking Committee, the committee expressed an interest in being involved in the process for the current outdoor dining study. The Planning Division brought the issue to the September 1<sup>st</sup>, 2021 meeting to solicit some comments for the Planning Board to consider. Their comments arose from their role in reviewing outdoor dining platforms, and their effect on parking specifically. Their comments may be summarized in the following bullet points:

- Regulating the number of platforms per block.
- Begin the platform review at the APC instead of Planning Board.
- Finding a balance between two desired commodities: outdoor dining and parking.
- Annual review of outdoor dining decks.
- Different uses, different rules.

- Platforms open at all hours of the day to foster activation, avoid empty decks/wasted space.
- The possibility of different outdoor dining districts.

### **Common Ordinance Issues**

During Study Session #2, Planning Board members expressed an interest in reviewing some of the issues that arose during the temporary COVID-19 outdoor dining expansions, and which of the expansions received enforcement for violations of the temporary ordinance. Before reviewing these issues, the Planning Division felt it important to outline some of the more regular and/or routine issues with approved outdoor dining patios that are observed on a day-to-day basis:

- Maintenance of the required 5 ft. minimum clear path.
- Maintaining a valid outdoor dining license.
- Adherence to the approved outdoor dining/site plans.
- Exceeding approved/permitted outdoor dining seat counts.

These four issues come up on a regular basis during the outdoor dining season, but also a typically become a focal point during the annual liquor license review process for those establishments serving alcoholic beverages, which occurs in January/February every year. When it comes to the required 5 ft. minimum clear path, there are a number of variables to consider. For outdoor dining patios with more modular barriers separating the dining patio from the sidewalk, these barrier elements tend to migrate outward more easily, causing issues with pedestrian passage (or in the case of alleys, vehicular passage). Those dining patios that are enclosed with a more rigid barrier such as a fixed metal railing are better suited to maintain the required clear path, but may not offer as many opportunities for beautification/plantings.

In the absence of barriers, tables and chairs also have a tendency to migrate. In some recent reviews for outdoor dining proposals, it was observed that outdoor dining plans often show tables and chairs neat and tucked in without considerations for the space a person takes up after sitting at the table. While a 5 ft. clear path is often shown on the plans as required, reality is often observed to be different. To combat this, the Planning Division is considering either widening the required clear path to 6 ft. or more, or requiring outdoor dining plans to show a buffer around each table to reduce the likelihood of encroachments into the clear path. Finally, it has been noted by the Engineering Division that the exposed aggregate concrete in the streetscape amenity zones throughout Birmingham may not be considered ADA compliant and thus, may not be considered as clear path for the purposes of this ordinance.

The issue of maintaining a valid outdoor dining license also contains many layers. The outdoor dining license is an annual license required for all outdoor dining patios located on public property. The applicant is required to submit the application, as well as complete and sign an Outdoor Café License Agreement outlining their responsibilities in using public property. The Planning Division is currently reviewing the Outdoor Café License Agreement for any potential areas of improvement, but it has been observed over the years that there are often inconsistencies with the information entered by applicants in terms of their tables and chairs, and whether or not any changes have occurred from previous years.

The inconsistencies described above, along with other factors, often result in outdoor dining patios that do not adhere to the approved outdoor dining plans on file within the Planning Division.



Table and chair numbers, umbrellas, heaters, planters, and service stations are often added or changed without any approval from the Planning Division or Planning Board. These types of changes and the requirements for changes to the outdoor patio space is expected to be clarified in new ordinance language.

The deviations from the approved number of tables and chairs can become an issue not only for certain uses who are permitted to have a maximum seat count, but we now know that outdoor seating matters when it comes to the plumbing code and required restroom facilities.

### **Temporary COVID-19 Enforcements**

The temporary COVID-19 outdoor dining expansions offered some new complications on top of what is typically observed in outdoor dining patios. During the pandemic, and through various emergency orders by state and local governments, the Police Department performed regular checks on restaurants to monitor all of the COVID-19 regulations associated with the emergency orders, as well as compliance with the temporary resolution adopted by the City Commission. A full log of checks is attached for your review containing comments from the Police and Fire Departments, as well as the Building Division. When the end date for the temporary resolution came up in June 2021, the Police Department also created a summary presentation for the City Commission with general information on some of the challenges that the City was facing in regards to the temporary patio expansions. Some of the main issues were as follows:

- ADA standards and requirements were compromised.
- Expansions encroached further into sidewalks, yellow curb zones, and streets.
- Expansions impaired access to neighboring retailers.
- Propane heaters and storage of propane tanks posed safety concerns.

These issues, in conjunction with the state of the overall COVID-19 pandemic, were the main drivers in ending the temporary resolution and bringing the City's outdoor dining patios back into compliance with pre-COVID outdoor dining plans. The Police Department presentation is also attached for your review.

In addition, the Fire Department performed an inspection of the temporary outdoor dining expansion and provided some photographs to the Planning Division which are attached to this report. Finally, the Planning Division kept a spreadsheet of which restaurants applied for expansions and recorded data on the outdoor dining conditions on site, which is also attached to this report. In most cases, due to the social distancing requirements, the number of outdoor dining seats pre-COVID and expansion related were comparable. However, the square footage of total outdoor dining space was not.

### **Purpose of Outdoor Dining**

Also discussed at length during Study Session #2 was the need for the Planning Board to consider the purpose of the outdoor dining ordinance, and the potential to codify this purpose within the ordinance language. From an urban planning/urban design perspective, outdoor dining is beneficial in many ways:

- Outdoor dining is trendy, but also a permanent fixture;
- Spending time outdoors is beneficial to overall public health;
- Increased seating options frees up indoor space for the rapid growth in carry-out business;

- Added business fosters economic development;
- Well-designed patios activate public space;
- Outdoor dining offers more options for diners, including pet owners;

A purpose statement for outdoor dining could include any or all of these benefits, as well as general statements regarding the health, safety and welfare of the public. Other areas of our current Zoning Ordinance contain purpose statements, including the following:

- Screening Standards: The purpose of this section is to require a barrier, capable of containing noise, vehicular lights, visual disarray, debris and other factors detrimental to the health, safety and welfare of the community, between an open parking station, outdoor storage, dumpsters and adjacent properties. Flexibility in the materials, size, height and placement of walls is permitted in order to allow architectural harmony and usable open space and to accomplish a unified design.
- Landscaping Standards: Landscaping is an essential part of the design and development of a site. Landscape plantings are a benefit to the environment, public health, air quality, safety, comfort, convenience and general welfare of the community. These standards will result in the reduction of storm water runoff, heat buildup and will filter and reduce glare from car headlights. They may reduce energy costs in structures and will improve the aesthetics of the community.
- Alternative Energy: The purpose and intent of the city is to balance the need for clean and renewable energy resources with the necessity to protect the public health, safety and welfare of the city, as well as to preserve the integrity, character, property values, and aesthetic quality of the community at large.

Below is an example of how the outdoor dining purpose statement could look:

- Outdoor Dining: The purpose of this section is to provide an appropriate balance for outdoor dining patios across the city, and to encourage better spaces to improve public health, activate public space, foster economic development, and provide flexibility for current trends and future demands for outdoor dining.

### **Draft Ordinance Language**

*(See next page)*

## Article 4, Section 4.44 – Outdoor Dining Standards

This Outdoor Dining Standards section applies to the following districts:

**B1 B2 B2B B2C B3 B4 MX O1 O2 TZ3**

The following outdoor dining standards apply:

- A. Purpose and Intent: The purpose of this section is to provide an appropriate balance for outdoor dining patios across the city, and to encourage better spaces to improve public health, activate public space, foster economic development, and provide flexibility for current trends and future demands for outdoor dining.
- B. Outdoor Dining – General: Outdoor dining is permitted immediately adjacent to the principal use, subject to review by the Planning Board, or by the Planning Division at the discretion of the Planning Director, and the following conditions
  1. Outdoor dining patios shall provide and service refuse containers within the outdoor dining patio and maintain the area in good order.
  2. All outdoor activity must cease at the close of business or as noted in subsection 3 below.
  3. When an outdoor dining patio is immediately adjacent to any single-family or multiple-family zoned residential district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.
  4. The review of outdoor dining patios shall include, but are not limited to, the following elements: tables, chairs, umbrellas, portable heating elements, barriers, service stations, landscaping/plantings, awnings, canopies, lighting, host/hostess stands, and entertainment.
  5. Outdoor dining patios shall not contain enclosures as defined in Article 9, Section 9.02 of the Zoning Ordinance.
  6. All outdoor patios shall be designed to meet the requirements of this section, as well as all applicable building and fire codes.
- C. Outdoor Dining – Public Property: Outdoor dining located on public property such as sidewalks, alleys and passages, and streets, shall be subject to the following requirements:
  1. Outdoor dining may be permitted on public property throughout the year with a valid Outdoor Dining License, provided that the following conditions are met:
    - i. Approval of an Outdoor Dining License shall be contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
    - ii. Operators of outdoor dining patios shall be responsible for snow and ice removal, and shall remove of such in a manner consistent with that of the Department of Public Services.
    - iii. Portable patio elements such as tables, chairs, heaters and umbrellas must be stored indoors each night between December 1 and March 1 to allow for complete snow and ice removal.

- iv. An ADA compliant platform may be erected in the on-street parking space(s) in front of an eating establishment to create an outdoor dining patio from April 1 through November 1, subject to a review by the Advisory Parking Committee.

2. Design: Outdoor dining patios located on public property are subject to the following design standards:

- i. All tables and chairs provided in the outdoor dining patio shall be constructed primarily of metal, wood, or a material of comparable quality as determined by the Planning Board.
- ii. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 6 ft.
- iii. No such facility shall erect or install permanent fixtures in the public right-of-way.
- iv. Table umbrellas or other freestanding overhead weather protection shall not (1) impede sight lines into a retail establishment, (2) obstruct pedestrian flow in the outdoor dining area, (3) obstruct pedestrian or vehicular traffic flow outside the outdoor dining area, or (4) contain signage or advertising.
- v. Barriers delineating outdoor patios shall be constructed of a quality and durable material, and shall be maintained and placed in a consistent and organized fashion. Barriers may not exceed 42 inches in height, with the exception of planting material.
- vi. Portable heating elements must be maintained and kept in an orderly fashion. Propane or other fuels may not be stored on public property, and are subject to the Storage and Display Standards outlined in Article 4, Section 4.67 of the Zoning Ordinance.
- vii. Ancillary elements such as service stations or host/hostess stands must be located within the approved outdoor dining patio, contained, and kept in a neat and orderly fashion. Service stations and host/hostess stands may not exceed 4 feet in height. The storage of dirty dishware is prohibited.

D. Outdoor Dining – Private Property: Outdoor dining located on private property such as general private property, porches, recesses, courtyards decks and rooftops, shall be subject to the following conditions:

1. Design: Outdoor dining patios located on private property are subject to the following design standards:

- i. All tables and chairs provided in the outdoor dining patio shall be constructed primarily of metal, wood, or a material of comparable quality as determined by the Planning Board.
- ii. Table umbrellas or other freestanding overhead weather protection shall not (1) impede sight lines into a retail establishment, (2) obstruct pedestrian flow in the outdoor dining area, (3) obstruct pedestrian or

- vehicular traffic flow outside the outdoor dining area, or (4) contain signage or advertising.
- iii. Barriers delineating outdoor patios shall be constructed of a quality and durable material, and shall be maintained and placed in a consistent and organized fashion. Barriers may not exceed 42 inches in height, with the exception of planting material.
  - iv. Portable heating elements must be maintained and kept in an orderly fashion. The storage of propane or other fuels shall be subject to the Storage and Display Standards outlined in Article 4, Section 4.67 of the Zoning Ordinance.
  - v. Ancillary elements such as service stations or host/hostess stands must be located within the approved outdoor dining patio, contained and kept in an orderly fashion. Service stations and host/hostess stands may not exceed 4 feet in height. The storage of dirty dishware is prohibited.

### **Article 9, Section 9.02 – Definitions**

**Enclosure (outdoor dining):** An area that may or may not contain a roof and as few as one wall, panel, or material that provides relief from weather and impedes physical and/or visual access to the space. For the purposes of this definition, enclosure does not include exterior building walls or landscaping.

**Outdoor Dining Patio:** A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the restaurant and subject to the provisions of this ordinance.

**Permanent Fixture (outdoor dining):** Any element within an outdoor dining patio containing a foundation or other rigid attachment that prevents removal or that which requires extensive modifications to the public right-of-way.



# MEMORANDUM

Planning Division

**DATE:** September 23<sup>rd</sup>, 2021

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #4

---

On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23<sup>rd</sup>, 2021, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

### **Study Session #1 Summary**

On July 14<sup>th</sup>, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

### **Study Session #2 Summary**

On August 11<sup>th</sup>, 2021, the Planning Board reviewed another high-level report in which the Planning Division presented various departmental comments on outdoor dining, a national outdoor dining ordinance review, conversations with local cities, and a study of national organization input and trends. The Planning Division also provided some public feedback from Engage Birmingham, which surveyed the public for their opinion of the COVID-19 temporary outdoor dining expansions, which were overwhelmingly positive. Moving forward, the Planning Board expressed interest in getting into more detail on seasonal/year round dining and its effect on street activation, public versus public space, the potential for regulating different restaurants/licenses differently, and defining and establishing a purpose of outdoor dining in the City.

### **Study Session #3 Summary**

On September 9<sup>th</sup>, the Planning Board discussed the report which contained comments from the Advisory Parking Committee, common issues with outdoor dining patios, information on the temporary COVID-19 patios, and also discussed the purpose of outdoor dining. In addition, the Planning Board was able to review an example of how the outdoor dining ordinance could look based on comments up to that point. Ultimately, the conversation started to get more granular with specific ordinance-related ideas ranging from an official stance on enclosures to material guidelines to patio placement. There were several other requests for information including a review of Michigan Liquor Control Commission guidelines for outdoor dining, a review of the concept of windbreak versus wall, and the possibility of regulating outdoor dining by zones.

## Study Session #4

### Michigan Liquor Control Commission (MLCC)

In conversations regarding enclosures, it was suggested that the Planning Board review the MLCC rules for enclosures so that the ordinance language amendments do not conflict or confuse outdoor dining patio operators who would have to then juggle two separate rules. At this time, it appears as though the MLCC rules regarding outdoor patios are simple:

R 436.1419 - Outdoor service without approval prohibited; requirements for outdoor service if approval is granted.

- (1) An on-premises licensee shall not have outdoor service without the prior written approval of the commission.
- (2) If approval for outdoor service is granted, then the on-premises licensee shall ensure that the outdoor service area is well-defined and clearly marked and the on-premises licensee shall not sell, or allow the consumption of, alcoholic liquor outdoors, except in the defined area.
- (3) The commission may issue up to 12 daily temporary outdoor service permits to a licensee each calendar year upon written request of the licensee and approval of the chief law enforcement officer who has jurisdiction.

It is clear that the Planning Board would do well to include that language in new ordinance language, but also be safe to define enclosures as they see fit.

### Windbreak versus Wall

As the Planning Board has decided their approach to outdoor dining will *not* include allowing enclosures, the board did express interest in exploring some options for relief from wind. Windbreak is generally defined as “a thing, such as a row of trees or a fence, wall, or screen, that provides shelter or protection from the wind.” At this point, it is also helpful to review definitions for a couple of other concepts:

- **Wall:** Structural element used to divide or enclose, and, in building construction, to form the periphery of a room or a building. ([Britannica](#))
- **Room:** A part of the inside of a building that is separated from other parts by walls, floor, and ceiling. ([Cambridge](#))
- **Building:** Any structure having a roof, including but not limited to tents, awning, carports, and such devices as house trailers, which have a primary function other than being a means of conveyance. ([Article 9, Section 9.02](#))

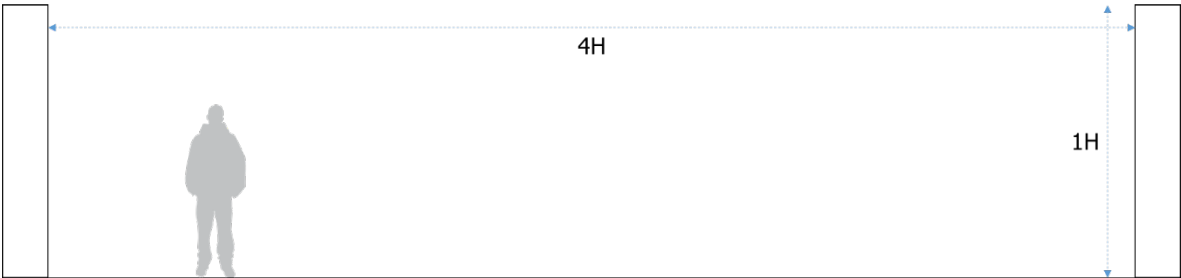
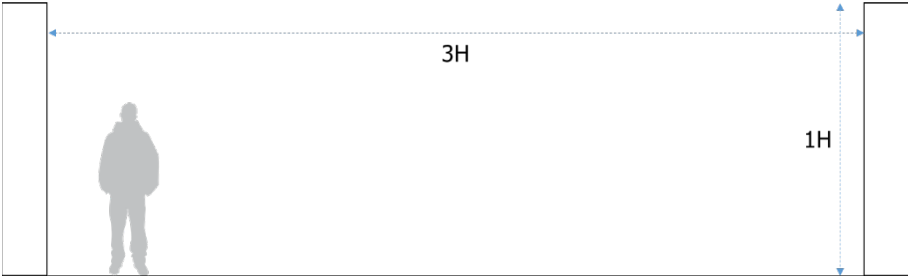
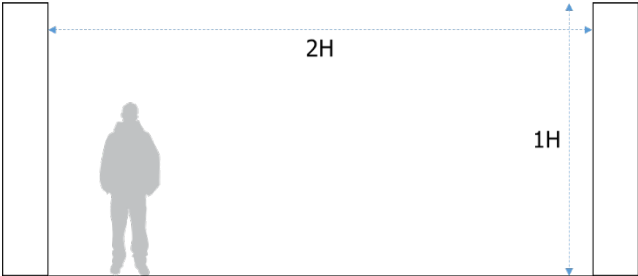
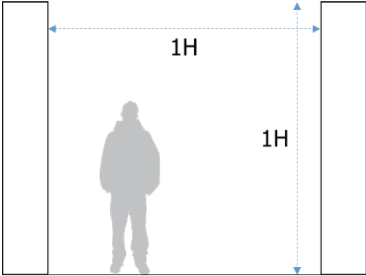
As the Planning Division understood the conversation at the Planning Board, there seems to be a line where a windbreak could become something closer to a wall, and the Planning Board is interested in discussing what that point may be. To help guide that conversation, the Planning Division considered the following:

### Degree of Enclosure

The concept of [degree of enclosure](#) is an urban design principle that revolves around a person's perception of enclosure within a space, which is based on a horizontal to vertical ratio. In general, the principle suggests that a person begins to perceive a sense of enclosure at a 3:1 ratio, and

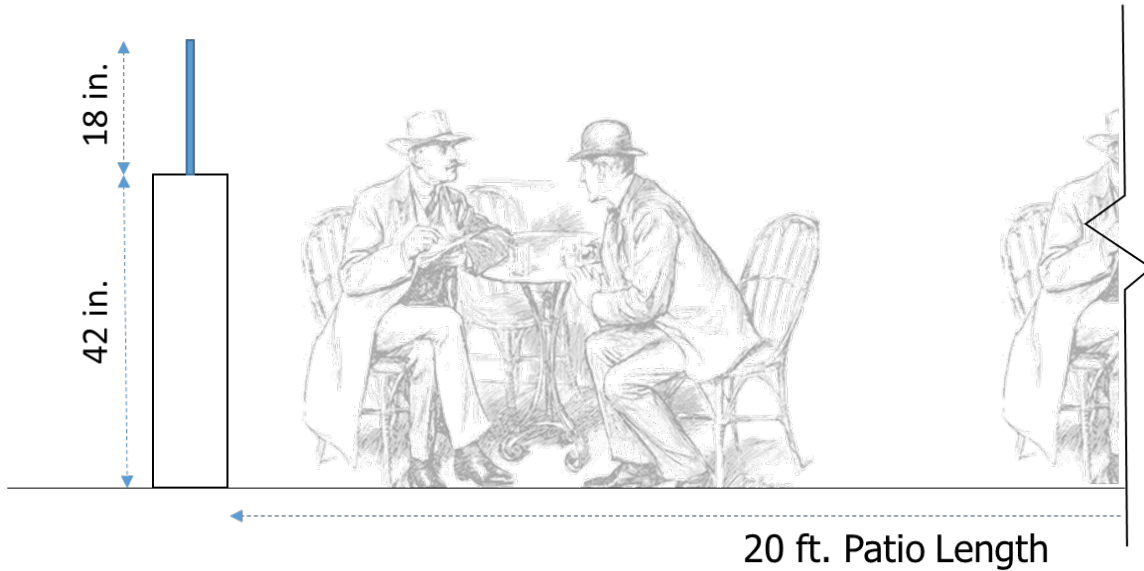


more of a sense of enclosure as that ratio decreases. Ratios of 4:1 or greater generate no sense of enclosure.

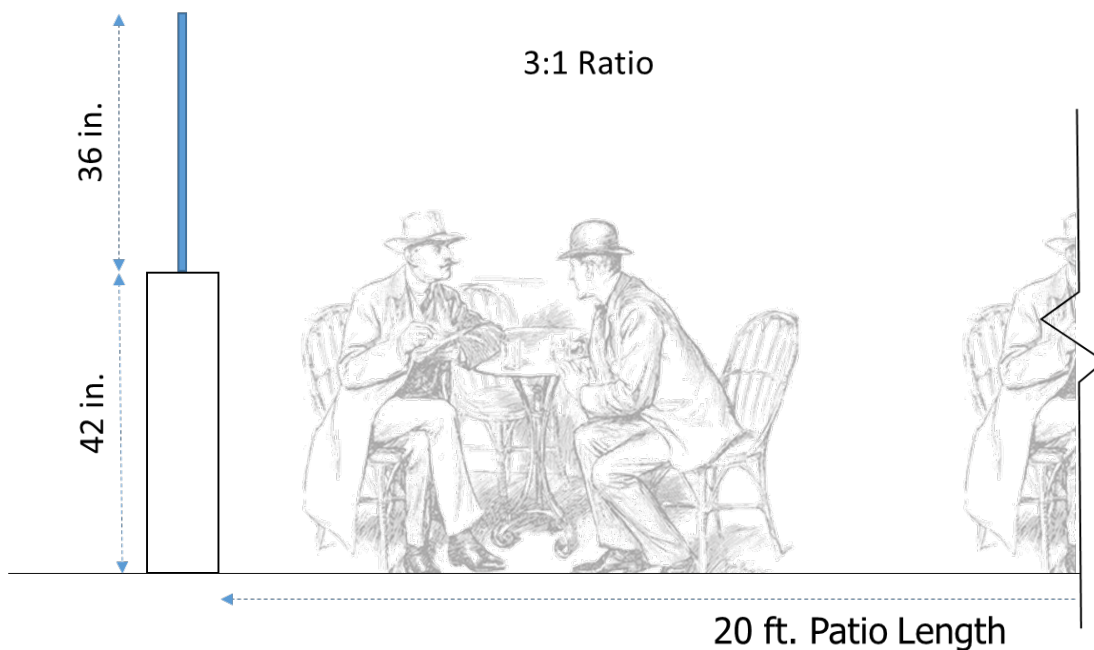


Could this concept be transposed and used to determine the appropriate height for a windbreak in an outdoor dining patio? For example, using the 4:1 ratio in an outdoor dining patio that measures 20 ft. in length (the typical length of a platform in the right-of-way), a barrier with a wind break would be permitted at no greater than 5 ft. (60 in.). A barrier with windbreak for the same 20 ft. patio at a 3:1 ratio would permit a roughly 6 ft. 6 in. (78 in.) barrier and windbreak. The following drawings were created under the assumption that the patio barrier would be 42 in. tall as currently permitted under the Zoning Ordinance:

4:1 Ratio

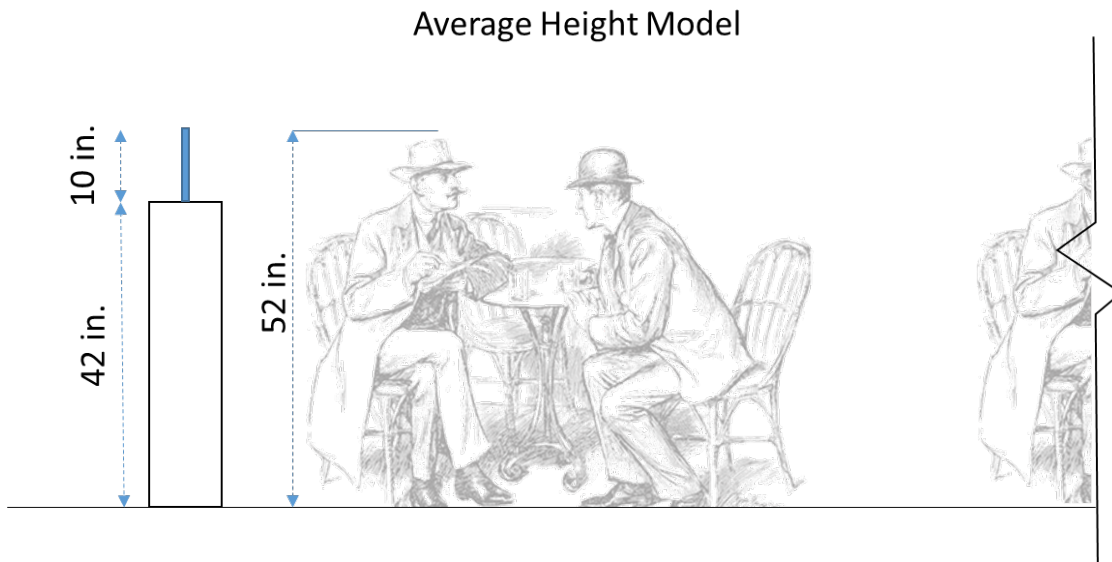


3:1 Ratio



### Average Height

Alternatively, if a more standard height is preferred based on the ease and consistency of review and enforcement, the Planning Board could consider the average height of Americans. According to the [Center for Disease Control](#), the average height of a male is 5 ft. 9 in. (69 in.), while the average height for a female is 5 ft. 4 in. (64 in.) An analysis of the seat height of 10 different outdoor patio chairs yielded an average seat height of 17.5 in. Using a simple proportion of 50/50 for the average human, we can assume that we should consider 50% of a person's height in determining the overall height of a person sitting in a chair. Using these figures, the average male should measure around 52 in. tall while sitting, and the average female would measure 49.5 in. tall while sitting.



Interestingly enough, if the Planning Board were to account for different seat and person height, the windbreak could be close in height to the 4:1 ratio model presented above.

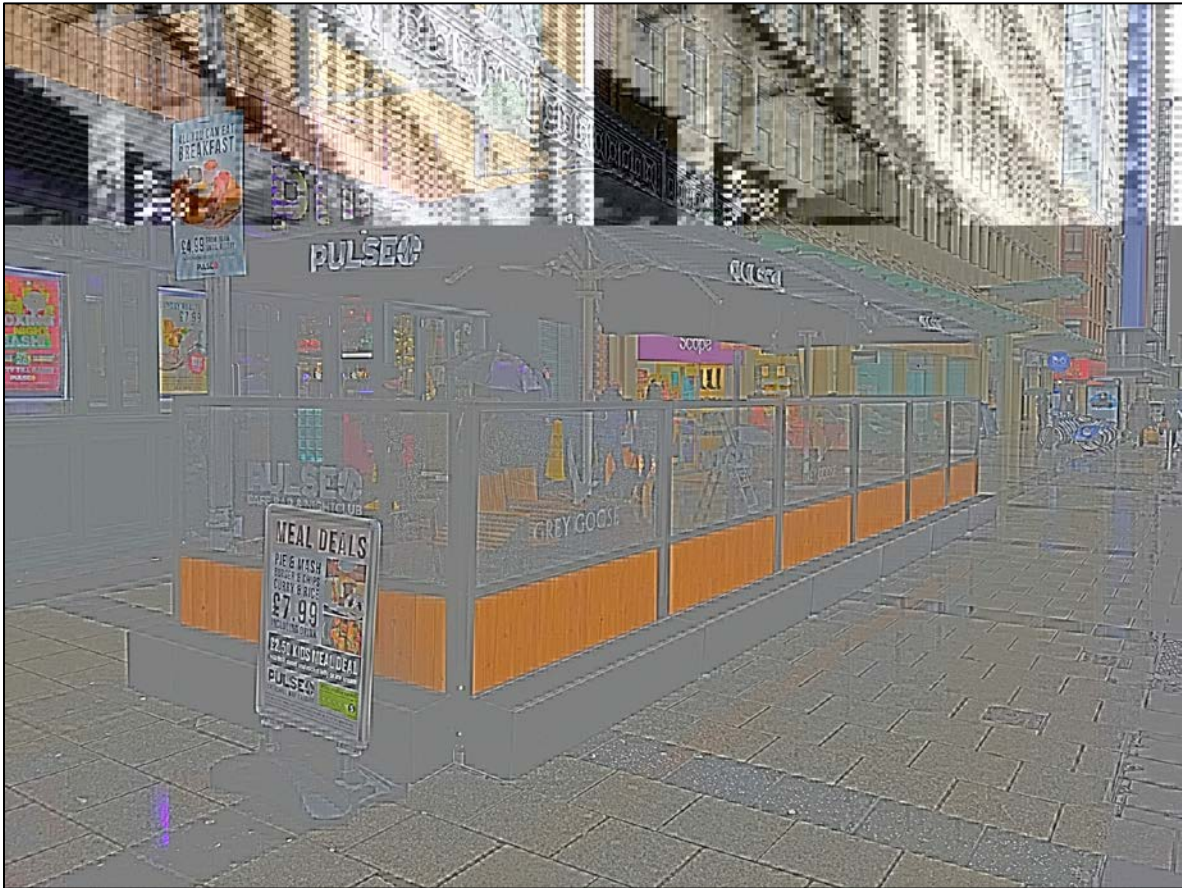
In addition to height, the Planning Board was also interested in what typed of materials to consider for windbreaks. Based on research, different materials for windbreaks could include glass/plastic, landscaping, screens, wood, metal or canvas/cloth. However, the most common windbreaks observed in outdoor dining patios appear to be glass/plastic:











### **Outdoor Dining Regulations by Zoning District**

At this time, outdoor dining is permitted in all business and office zones within the city (B1, B2, B2B, B2C, B3, B4, O1, O2, MX) as well as the TZ3 transitional zone. Out of the 43 establishments with outdoor dining, 64% are located within the B4 zoning district, while the next highest share is located in O2 at 14%.

Please see attached maps for reference.

### **Draft Ordinance Language**

*(See next page)*

## Article 4, Section 4.44 – Outdoor Dining Standards

This Outdoor Dining Standards section applies to the following districts:

**B1 B2 B2B B2C B3 B4 MX O1 O2 TZ3**

The following outdoor dining standards apply:

- A. Purpose and Intent: The purpose of this section is to provide an appropriate balance for outdoor dining patios across the city, and to encourage better spaces to support public health, activate public space, foster economic development, safeguard the use of public property, and provide flexibility for current trends and future demands for outdoor dining.
- B. Outdoor Dining – General: Outdoor dining is permitted immediately adjacent to the principal use, subject to review by the Planning Board, or by the Planning Division at the discretion of the Planning Director, and the following conditions
  1. All outdoor activity must cease at the close of business or as noted in subsection 3 below.
  2. When an outdoor dining patio is immediately adjacent to any single-family or multiple-family zoned residential district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.
  3. The review of outdoor dining patios shall include, but are not limited to, the following elements: tables, chairs, umbrellas, portable heating elements, barriers, service stations, landscaping/plantings, awnings, canopies, lighting, host/hostess stands, and entertainment.
  4. Outdoor dining may be permitted on public property throughout the year with a valid Outdoor Dining License, provided that the following conditions are met:
    - i. Approval of an Outdoor Dining License shall be contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
    - ii. Operators of outdoor dining patios shall be responsible for snow and ice removal, and shall remove of such in a manner consistent with that of the Department of Public Services.
    - iii. Portable patio elements such as tables, chairs, heaters and umbrellas must be stored indoors each night between December 1 and March 1 to allow for complete snow and ice removal.
    - iv. An ADA compliant platform may be erected in the on-street parking space(s) in front of an eating establishment to create an outdoor dining patio from April 1 through November 1, subject to a review by the Advisory Parking Committee.
  5. All outdoor patios shall be designed to meet the requirements of this section, as well as all applicable building and fire codes.
- C. Outdoor Dining – Design: All outdoor dining patios are subject to the following design standards:

1. All tables and chairs provided in the outdoor dining patio shall be constructed primarily of metal, wood, or a material of comparable quality as determined by the Planning Board.
2. Outdoor dining patios shall provide and service refuse containers within the outdoor dining patio and maintain the area in good order.
3. Outdoor dining patios shall not contain enclosures as defined in Article 9, Section 9.02 of the Zoning Ordinance.
4. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 6 ft.
5. No such facility shall erect or install permanent fixtures in the public right-of-way.
6. Table umbrellas or other freestanding overhead weather protection shall not (1) impede sight lines into a retail establishment, (2) obstruct pedestrian flow in the outdoor dining area, (3) obstruct pedestrian or vehicular traffic flow outside the outdoor dining area, or (4) contain signage or advertising.
7. Barriers defining outdoor patios shall be constructed of a quality and durable material, and shall be maintained and placed in a consistent and organized fashion. Barriers shall be secured to the ground and/or building to maintain an immovable, clearly defined patio space. Barriers may not exceed 42 inches in height with the exception of planting material.
8. Windbreaks are permitted within outdoor dining patios and shall not exceed 60 inches in height and must be constructed of a clear material. Windbreaks placed atop a barrier shall not exceed 18 in. in height.
9. Portable heating elements must be maintained and kept in an orderly fashion. Propane or other fuels may not be stored on public property, and are subject to the Storage and Display Standards outlined in Article 4, Section 4.67 of the Zoning Ordinance.
10. Ancillary elements such as service stations or host/hostess stands must be located within the approved outdoor dining patio, contained, and kept in a neat and orderly fashion. Service stations and host/hostess stands may not exceed 4 feet in height. The storage of dirty dishware is prohibited.

#### **Article 9, Section 9.02 – Definitions**

**Enclosure (outdoor dining):** An area that may or may not contain a roof and as few as one wall, panel, or material that provides relief from weather and impedes physical and/or visual access to the space. For the purposes of this definition, enclosure does not include exterior building walls, windbreaks or landscaping.

**Outdoor Dining Patio:** A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the establishment and subject to the provisions of this ordinance.

**Permanent Fixture (outdoor dining):** Any element within an outdoor dining patio containing a foundation or other rigid attachment that prevents removal or that which requires extensive modifications to the public right-of-way.





# MEMORANDUM

Planning Division

**DATE:** December 8, 2021

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #6

---

On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

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- Review the placement of decks and enclosures;
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- Seek possible ideas from local, national and international examples;
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- Review tickets that were given out to temporary outdoor dining operations;
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- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

### **Study Session #1 Summary**

On July 14<sup>th</sup>, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

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#### **Study Session #4 Summary**

On September 23<sup>rd</sup>, the Planning Board discussed the MLCC rules for outdoor dining patios, the concept of a windbreak and whether or not they should be permitted, and also explored the different zoning districts in which outdoor dining is permitted. These topics led to more conversation about how overhead weather protection will interact with said overhead coverings, and what typed of overhead protection the Planning Board should permit. The Planning Board expressed an interest in taking a deeper dive into overhead weather protection and reviewing different options.

#### **Study Session #5 Summary**

#### **Study Session #6**

## Article 4, Section 4.44 – Outdoor Dining Standards

This Outdoor Dining Standards section applies to the following districts:

**B1 B2 B2B B2C B3 B4 MX O1 O2 TZ3**

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8. Windbreaks are permitted within outdoor dining patios and shall be affixed to a barrier. The total combined height of a barrier and windbreak shall not exceed 60 inches. Windbreaks must be constructed of a clear and durable material.
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# MEMORANDUM

Planning Division

**DATE:** December 8, 2021

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #6

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On June 23<sup>rd</sup>, 2021, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

### **Study Session #1 Summary**

On July 14<sup>th</sup>, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

### **Study Session #2 Summary**

On August 11<sup>th</sup>, 2021, the Planning Board reviewed another high-level report in which the Planning Division presented various departmental comments on outdoor dining, a national outdoor dining ordinance review, conversations with local cities, and a study of national organization input and trends. The Planning Division also provided some public feedback from Engage Birmingham, which surveyed the public for their opinion of the COVID-19 temporary outdoor dining expansions, which were overwhelmingly positive. Moving forward, the Planning Board expressed interest in getting into more detail on seasonal/year round dining and its effect on street activation, public versus public space, the potential for regulating different restaurants/licenses differently, and defining and establishing a purpose of outdoor dining in the City.

### **Study Session #3 Summary**

On September 9<sup>th</sup>, the Planning Board discussed the report which contained comments from the Advisory Parking Committee, common issues with outdoor dining patios, information on the temporary COVID-19 patios, and also discussed the purpose of outdoor dining. In addition, the Planning Board was able to review an example of how the outdoor dining ordinance could look based on comments up to that point. Ultimately, the conversation started to get more granular with specific ordinance-related ideas ranging from an official stance on enclosures to material guidelines to patio placement. There were several other requests for information including a review of Michigan Liquor Control Commission guidelines for outdoor dining, a review of the concept of windbreak versus wall, and the possibility of regulating outdoor dining by zones.

#### **Study Session #4 Summary**

On September 23<sup>rd</sup>, the Planning Board discussed the MLCC rules for outdoor dining patios, the concept of a windbreak and whether or not they should be permitted, and also explored the different zoning districts in which outdoor dining is permitted. These topics led to more conversation about how overhead weather protection will interact with said overhead coverings, and what typed of overhead protection the Planning Board should permit. The Planning Board expressed an interest in taking a deeper dive into overhead weather protection and reviewing different options.

#### **Study Session #5 Summary**

On October 27<sup>th</sup>, 2021, the Planning Board focused much their conversation on overhead weather protection and which types may be considered within the new ordinance language, and what different issues might arise with the different styles. In addition, the Birmingham Fire Chief Paul Wells gave a brief overview of the fire code as it relates to overhead weather protection, and offered some guidance to the Planning Board regarding fire suppression and other aspects of outdoor dining. In addition to overhead weather protection, the Planning Board provided some clear direction on the subjects of windbreaks, year-round dining, and the role of outdoor dining decks.

#### **Study Session #6**

The Planning Division has received the highly anticipated comments regarding outdoor dining from the Birmingham Shopping District (BSD). As the BSD plays a unique role in the City, and its constituents are comprised of retail and restaurant uses alike, it was important for the BSD to thoroughly vet their comments and recommendations through each of their sub-committees so that they may offer a consistent and well-represented response to the Planning Division's request for input. The attached document offers several recommendations, as well as a background of the thought processes and some of the opposing viewpoints that were expressed during their meetings.

In addition to the BSD comments, the Fire Department has also included updated comments for the Planning Board review based on their additional research into the Fire Code. These updated comments are intended to keep the Planning Board current with the most up-to-date codes and processes relating to all aspects of outdoor dining patios. As it follows, new comments were added regarding enclosures/coverings, smoke detectors, structures attached to buildings, and propane storage.



## Article 4, Section 4.44 – Outdoor Dining Standards

This Outdoor Dining Standards section applies to the following districts:

**B1 B2 B2B B2C B3 B4 MX O1 O2 TZ3**

The following outdoor dining standards apply:

- A. Purpose and Intent: The purpose of this section is to provide an appropriate balance for outdoor dining patios across the city, and to encourage better spaces to support public health, activate public space, foster economic development, safeguard the use of public property, and provide flexibility for current trends and future demands for outdoor dining.
- B. Outdoor Dining – General: Outdoor dining is permitted immediately adjacent to the principal use, subject to review by the Planning Board, or by the Planning Division at the discretion of the Planning Director, and the following conditions
  1. All outdoor activity must cease at the close of business or as noted in subsection 2 below.
  2. When an outdoor dining patio is immediately adjacent to any single-family or multiple-family zoned residential district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.
  3. The review of outdoor dining patios shall include, but are not limited to, the following elements: tables, chairs, umbrellas, portable heating elements, barriers, service stations, landscaping/plantings, awnings, canopies, lighting, host/hostess stands, and entertainment.
  4. Outdoor dining may be permitted on public property throughout the year with a valid Outdoor Dining License, provided that the following conditions are met:
    - i. Approval of an Outdoor Dining License shall be contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
    - ii. Operators of outdoor dining patios shall be responsible for snow and ice removal, and shall remove of such in a manner consistent with that of the Department of Public Services.
    - iii. Portable patio elements such as tables, chairs, heaters and umbrellas must be stored indoors each night between December 1 and March 1 to allow for complete snow and ice removal.
    - iv. An ADA compliant platform may be erected in the on-street parking space(s) in front of an eating establishment to create an outdoor dining patio from April 1 through November 1, subject to a review by the Advisory Parking Committee.
  5. All outdoor patios shall be designed to meet the requirements of this section, as well as all applicable building and fire codes.
- C. Outdoor Dining – Design: All outdoor dining patios are subject to the following design standards:

1. All tables and chairs provided in the outdoor dining patio shall be constructed primarily of metal, wood, or a material of comparable quality as determined by the Planning Board.
2. Outdoor dining patios shall provide and service refuse containers within the outdoor dining patio and maintain the area in good order.
3. Outdoor dining patios shall not contain enclosures as defined in Article 9, Section 9.02 of the Zoning Ordinance.
4. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 6 ft.
5. No such facility shall erect or install permanent fixtures in the public right-of-way.
6. Table umbrellas or other overhead weather protection shall not (1) impede sight lines into a retail establishment, (2) obstruct pedestrian flow in the outdoor dining area, (3) obstruct pedestrian or vehicular traffic flow outside the outdoor dining area, or (4) contain signage or advertising.
7. Barriers defining outdoor patios shall be constructed of a quality and durable material, and shall be maintained and placed in a consistent and organized fashion. Barriers shall be secured to the ground and/or building to maintain an immovable, clearly defined patio space. Barriers may not exceed 42 inches in height with the exception of planting material.
8. Windbreaks are permitted within outdoor dining patios and shall be affixed to a barrier. The total combined height of a barrier and windbreak shall not exceed 60 inches. Windbreaks must be constructed of a clear and durable material.
9. Portable heating elements must be maintained and kept in an orderly fashion. Propane or other fuels may not be stored on public property, and are subject to the Storage and Display Standards outlined in Article 4, Section 4.67 of the Zoning Ordinance.
10. Ancillary elements such as service stations or host/hostess stands must be located within the approved outdoor dining patio, contained, and kept in a neat and orderly fashion. Service stations and host/hostess stands may not exceed 4 feet in height. The storage of dirty dishware is prohibited.

#### **Article 9, Section 9.02 – Definitions**

**Enclosure (outdoor dining):** An area that may or may not contain a roof and as few as one wall, panel, or material that provides relief from weather and impedes physical and/or visual access to the space. For the purposes of this definition, enclosure does not include exterior building walls, windbreaks or landscaping.

**Outdoor Dining Patio:** A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the establishment and subject to the provisions of this ordinance.

**Permanent Fixture (outdoor dining):** Any element within an outdoor dining patio containing a foundation or other rigid attachment that prevents removal or that which requires extensive modifications to the public right-of-way.



# MEMORANDUM

Planning Division

**DATE:** January 12, 2022

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #7

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23<sup>rd</sup>, 2021, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

### **Study Session #1 Summary**

On July 14<sup>th</sup>, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

### **Study Session #2 Summary**

On August 11<sup>th</sup>, 2021, the Planning Board reviewed another high-level report in which the Planning Division presented various departmental comments on outdoor dining, a national outdoor dining ordinance review, conversations with local cities, and a study of national organization input and trends. The Planning Division also provided some public feedback from Engage Birmingham, which surveyed the public for their opinion of the COVID-19 temporary outdoor dining expansions, which were overwhelmingly positive. Moving forward, the Planning Board expressed interest in getting into more detail on seasonal/year round dining and its effect on street activation, public versus public space, the potential for regulating different restaurants/licenses differently, and defining and establishing a purpose of outdoor dining in the City.

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On September 9<sup>th</sup>, the Planning Board discussed the report which contained comments from the Advisory Parking Committee, common issues with outdoor dining patios, information on the temporary COVID-19 patios, and also discussed the purpose of outdoor dining. In addition, the Planning Board was able to review an example of how the outdoor dining ordinance could look based on comments up to that point. Ultimately, the conversation started to get more granular with specific ordinance-related ideas ranging from an official stance on enclosures to material guidelines to patio placement. There were several other requests for information including a review of Michigan Liquor Control Commission guidelines for outdoor dining, a review of the concept of windbreak versus wall, and the possibility of regulating outdoor dining by zones.

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### **Study Session #6 Summary**

On December 8<sup>th</sup>, 2021, the Planning Board reviewed comments regarding outdoor dining from the Birmingham Shopping District (BSD). In addition to the BSD comments, the Planning Board also reviewed some updated comments from the Fire Department based on their additional research into the Fire Code. To round out the meeting, the Planning Board outlined several items that they feel need further discussion/decision moving forward:

- Whether establishments with liquor licenses and establishments without liquor licenses should be handled differently;
- Whether there should be on-season and off-season dates for outdoor dining, and what should happen to furniture and other equipment on public property if there are different 'seasons';
- Whether establishments should be permitted outdoor dining on both a sidewalk and a deck if requested, and if not, what the City wants to incentivize instead;
- What types of coverings and equipment should be allowed, and how specific the standards should be in terms of material, location, and other considerations;
- Whether outdoor dining should be permitted to extend beyond the storefront of an establishment, and if so, what the limitations should be;
- Whether outdoor dining decks should be limited to a certain number per block; and,
- Whether outdoor dining in public space and outdoor dining in private space should be regulated differently.

### **Study Session #7**

At this time, the Planning Board has expressed interest in spending some time discussing the questions posed in the previous study session (above). To help aid the discussion, the Planning Division has prepared a map and gathered data on the placement and number of platforms, as well as the most recent data available on the number of outdoor dining seats present in Birmingham for all permit-holding outdoor dining establishments.

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# MEMORANDUM

Planning Division

**DATE:** February 9, 2022

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #8

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

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### **Study Session #1 Summary**

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- Whether establishments with liquor licenses and establishments without liquor licenses should be handled differently;
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- Whether establishments should be permitted outdoor dining on both a sidewalk and a deck if requested, and if not, what the City wants to incentivize instead;
- What types of coverings and equipment should be allowed, and how specific the standards should be in terms of material, location, and other considerations;
- Whether outdoor dining should be permitted to extend beyond the storefront of an establishment, and if so, what the limitations should be;
- Whether outdoor dining decks should be limited to a certain number per block; and,
- Whether outdoor dining in public space and outdoor dining in private space should be regulated differently.

### **Study Session #7 Summary**

On January 12, 2022, the Planning Board discussed the several questions posed in the previous study session and come to a conclusion on most of them. In general, the Planning Board decided on a short extension to the regular outdoor dining season, treating all outdoor dining establishments alike, enhanced material and appearance standards, and allowing expansion of patios with neighbor consent. During this study session, the Planning Board also reviewed seating data for the different outdoor dining establishments, and was provided a map of all outdoor dining

in the City, which is heavily concentrated downtown. Ultimately, the Planning Board asked Staff to take their comments and work them into a new revised set of ordinance amendments to review on February 9, 2022.

### **Study Session #8**

At this point, the Planning Board has indicated that they would like to start working on fine-tuning a set of ordinance amendments over the next meeting or two and forward them to the City Commission for final approval. The Planning Division has prepared ordinance language that reflects the conversation of the board across the following pages. In addition to a review of the amended language, there is an opportunity for the board to discuss the final unanswered questions from previous study sessions, which are as follows:

- Whether establishments should be permitted outdoor dining on both a sidewalk and a deck if requested, and if not, what the City wants to incentivize instead;
- What types of coverings and equipment should be allowed, and how specific the standards should be in terms of material, location, and other considerations; and
- Whether outdoor dining decks should be limited to a certain number per block.

## Article 4, Section 4.44 – Outdoor Dining Standards

This Outdoor Dining Standards section applies to the following districts:

**B1 B2 B2B B2C B3 B4 MX O1 O2 TZ3**

The following outdoor dining standards apply:

- A. Purpose and Intent: The purpose of this section is to provide an appropriate balance for outdoor dining patios across the city, and to encourage better spaces to support public health, activate public space, foster economic development, safeguard the use of public property, and provide flexibility for current trends and future demands for outdoor dining.
- B. Outdoor Dining – General: Outdoor dining is permitted immediately adjacent to the principal use, subject to review by the Planning Board, or by the Planning Division at the discretion of the Planning Director, and the following conditions
  1. All outdoor activity must cease at the close of business or as noted in subsection 2 below.
  2. When an outdoor dining patio is immediately adjacent to any single-family or multiple-family zoned residential district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.
  3. The review of outdoor dining patios shall include, but are not limited to, the following elements: tables, chairs, umbrellas, portable heating elements, barriers, service stations, landscaping/plantings, awnings, canopies, lighting, host/hostess stands, and entertainment.
  4. Outdoor dining patios may be permitted to extend in the right-of-way in front of neighboring properties or tenant spaces with the written permission of the property owners(s) affected and with Planning Board approval.
  5. Outdoor dining may be permitted on public property throughout the year with a valid Outdoor Dining License, provided that the following conditions are met:
    - i. Approval of an Outdoor Dining License shall be contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
    - ii. Operators of outdoor dining patios shall be responsible for snow and ice removal, and shall remove snow and ice in a manner consistent with that of the Department of Public Services.
    - iii. Portable patio elements such as tables, chairs, heaters and umbrellas must be stored indoors each night between January 1 and March 31 to allow for complete snow and ice removal.
    - iv. Outdoor dining patios located in an alley or passage that contains vehicular traffic are permitted April 1 through December 31 only.
    - v. An ADA compliant platform may be erected in the on-street parking space(s) in front of an eating establishment to create an outdoor dining patio from April 1 through December 31, subject to an additional review by the Advisory Parking Committee.
  6. All outdoor patios shall be designed to meet the requirements of this section, as well as all applicable building and fire codes.

- C. Outdoor Dining – Design: All outdoor dining patios are subject to the following design standards:
1. All tables and chairs provided in the outdoor dining patio shall be constructed primarily of metal, wood, or a material of comparable quality as determined by the Planning Board.
  2. Outdoor dining patios shall provide and service refuse containers within the outdoor dining patio and maintain the area in good order. Public trash receptacles are not permitted to be utilized by outdoor dining facilities.
  3. All outdoor dining elements shall be contained within the defined outdoor dining patio space.
  4. Outdoor dining patios shall not contain enclosures as defined in Article 9, Section 9.02 of the Zoning Ordinance.
  5. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than 6 ft.
  6. No such facility shall erect or install permanent fixtures in the public right-of-way.
  7. Table umbrellas or other overhead weather protection shall not (1) impede sight lines into a retail establishment, (2) obstruct pedestrian flow in the outdoor dining area, (3) obstruct pedestrian or vehicular traffic flow outside the outdoor dining area, or (4) contain signage or advertising.
  8. Barriers defining outdoor patios shall be constructed of a quality and durable material, and shall be maintained and placed in a consistent and organized fashion. Barriers shall be secured to the ground and/or building to maintain an immovable, clearly defined patio space. Barriers may not exceed 42 inches in height with the exception of planting material, or as permitted in subsection 9 below.
  9. Windbreaks are permitted within outdoor dining patios and shall be affixed to a barrier. The total combined height of a barrier and windbreak shall not exceed 60 inches. Windbreaks must be constructed of a clear and durable material.
  10. Portable heating elements must be maintained and kept in an orderly fashion. Propane or other fuels may not be stored on public property, and are subject to the Storage and Display Standards outlined in Article 4, Section 4.67 of the Zoning Ordinance.
  11. Ancillary elements such as service stations or host/hostess stands must be located within the approved outdoor dining patio, contained, and kept in a neat and orderly fashion. Service stations and host/hostess stands may not exceed 4 feet in height. The storage of dirty dishware is prohibited.

#### **Article 9, Section 9.02 – Definitions**

**Enclosure (outdoor dining)**: An area that may or may not contain a roof or any wall, panel, or material that provides relief from weather and impedes physical and/or visual access to the space. For the purposes of this definition, enclosure does not include exterior building walls, windbreaks or landscaping.

**Outdoor Dining Patio**: A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the establishment and subject to the provisions of this ordinance.

**Permanent Fixture (outdoor dining):** Any element within an outdoor dining patio containing a foundation or other rigid attachment that prevents removal or that which requires extensive modifications to the public right-of-way.



# MEMORANDUM

Planning Division

**DATE:** March 9, 2022

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #9

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23<sup>rd</sup>, 2021, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restauranters do not have to continue to adapt to changing policies.

### **Study Session #1 Summary**

On July 14<sup>th</sup>, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

### **Study Session #2 Summary**

On August 11<sup>th</sup>, 2021, the Planning Board reviewed another high-level report in which the Planning Division presented various departmental comments on outdoor dining, a national outdoor dining ordinance review, conversations with local cities, and a study of national organization input and trends. The Planning Division also provided some public feedback from Engage Birmingham, which surveyed the public for their opinion of the COVID-19 temporary outdoor dining expansions, which were overwhelmingly positive. Moving forward, the Planning Board expressed interest in getting into more detail on seasonal/year round dining and its effect on street activation, public versus public space, the potential for regulating different restaurants/licenses differently, and defining and establishing a purpose of outdoor dining in the City.

### **Study Session #3 Summary**

On September 9<sup>th</sup>, the Planning Board discussed the report which contained comments from the Advisory Parking Committee, common issues with outdoor dining patios, information on the temporary COVID-19 patios, and also discussed the purpose of outdoor dining. In addition, the Planning Board was able to review an example of how the outdoor dining ordinance could look based on comments up to that point. Ultimately, the conversation started to get more granular with specific ordinance-related ideas ranging from an official stance on enclosures to material guidelines to patio placement. There were several other requests for information including a review of Michigan Liquor Control Commission guidelines for outdoor dining, a review of the concept of windbreak versus wall, and the possibility of regulating outdoor dining by zones.



### **Study Session #4 Summary**

On September 23<sup>rd</sup>, the Planning Board discussed the MLCC rules for outdoor dining patios, the concept of a windbreak and whether or not they should be permitted, and also explored the different zoning districts in which outdoor dining is permitted. These topics led to more conversation about how overhead weather protection will interact with said overhead coverings, and what typed of overhead protection the Planning Board should permit. The Planning Board expressed an interest in taking a deeper dive into overhead weather protection and reviewing different options.

### **Study Session #5 Summary**

On October 27<sup>th</sup>, 2021, the Planning Board focused much their conversation on overhead weather protection and which types may be considered within the new ordinance language, and what different issues might arise with the different styles. In addition, the Birmingham Fire Chief Paul Wells gave a brief overview of the fire code as it relates to overhead weather protection, and offered some guidance to the Planning Board regarding fire suppression and other aspects of outdoor dining. In addition to overhead weather protection, the Planning Board provided some clear direction on the subjects of windbreaks, year-round dining, and the role of outdoor dining decks.

### **Study Session #6 Summary**

On December 8<sup>th</sup>, 2021, the Planning Board reviewed comments regarding outdoor dining from the Birmingham Shopping District (BSD). In addition to the BSD comments, the Planning Board also reviewed some updated comments from the Fire Department based on their additional research into the Fire Code. To round out the meeting, the Planning Board outlined several items that they feel need further discussion/decision moving forward:

- Whether establishments with liquor licenses and establishments without liquor licenses should be handled differently;
- Whether there should be on-season and off-season dates for outdoor dining, and what should happen to furniture and other equipment on public property if there are different 'seasons';
- Whether establishments should be permitted outdoor dining on both a sidewalk and a deck if requested, and if not, what the City wants to incentivize instead;
- What types of coverings and equipment should be allowed, and how specific the standards should be in terms of material, location, and other considerations;
- Whether outdoor dining should be permitted to extend beyond the storefront of an establishment, and if so, what the limitations should be;
- Whether outdoor dining decks should be limited to a certain number per block; and,
- Whether outdoor dining in public space and outdoor dining in private space should be regulated differently.

### **Study Session #7 Summary**

On January 12, 2022, the Planning Board discussed the several questions posed in the previous study session and come to a conclusion on most of them. In general, the Planning Board decided on a short extension to the regular outdoor dining season, treating all outdoor dining establishments alike, enhanced material and appearance standards, and allowing expansion of patios with neighbor consent. During this study session, the Planning Board also reviewed seating data for the different outdoor dining establishments, and was provided a map of all outdoor dining

in the City, which is heavily concentrated downtown. Ultimately, the Planning Board asked Staff to take their comments and work them into a new revised set of ordinance amendments to review on February 9, 2022.

### **Study Session #8 Summary**

On February 9, 2022, the Planning Board worked on fine-tuning a set of ordinance amendments to try to finalize a few of their discussion points, and make sure the intent of the original direction of the City Commission was met. The Planning Board made several revision requests that were aimed at clarifying different aspects of the proposed ordinance, but especially relating to the barriers and enclosure regulations. In addition, the Planning Board made some requests to review various site plans from approved outdoor dining patios in the City to help guide the final discussions on the placement of patios, and other design limitations.

### **Study Session #9**

Based on the Planning Division's understanding of the previous meeting, the Planning Board wished to take another look at the proposed ordinance language after the comments from February 9 were considered by Staff, but also postponed conversation on three discussion points posed during Study Session #6, which include the following:

- Whether establishments should be permitted outdoor dining on both a sidewalk and a deck if requested, and if not, what the City wants to incentivize instead;
- What types of coverings and equipment should be allowed, and how specific the standards should be in terms of material, location, and other considerations; and
- Whether outdoor dining decks should be limited to a certain number per block.

At this time, the Planning Division has provided amended ordinance language based on Planning Board comments, but has also included other relevant sections in the Zoning Ordinance that deal with Outdoor Dining to address redundancy and provide consistent regulation. Finally, the Planning Division has compiled several approved outdoor dining plans to help guide the discussion as requested.

## Article 4, Section 4.44 – Outdoor Dining Standards

This Outdoor Dining Standards section applies to the following districts:

**B1 B2 B2B B2C B3 B4 MX O1 O2 TZ3**

The following outdoor dining standards apply:

- A. Purpose and Intent: The purpose of this section is to provide an appropriate balance for outdoor dining patios across the city, and to encourage better spaces to support public health, activate public space, foster economic development, safeguard the use of public property, and provide flexibility for current trends and future demands for outdoor dining.
- B. Outdoor Dining – General: Outdoor dining is permitted immediately adjacent to the principal use, subject to review by the Planning Board, or by the Planning Division at the discretion of the Planning Director, and the following conditions
  1. All outdoor activity must cease at the close of business or as noted in subsection 2 below.
  2. When an outdoor dining patio is immediately adjacent to any single-family or multiple-family zoned residential district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.
  3. The review of outdoor dining patios shall include, but are not limited to, the following elements: tables, chairs, umbrellas, portable heating elements, barriers, service stations, landscaping/plantings, awnings, canopies, lighting, host/hostess stands, and entertainment.
  4. Outdoor dining patios may be permitted to extend ~~in the right-of-way~~ in front of neighboring properties or tenant spaces with the written permission of the property owners(s) affected and with Planning Board approval.
  5. Outdoor dining may be permitted on public property throughout the year with a valid Outdoor Dining License, provided that the following conditions are met:
    - i. Approval of an Outdoor Dining License shall be contingent on compliance with all city codes, including any conditions required by the Planning Board in conjunction with Site Plan approval.
    - ii. Operators of outdoor dining patios shall be responsible for snow and ice removal, and shall remove snow and ice in a manner consistent with that of the Department of Public Services.
    - iii. **All outdoor dining patio elements such as railings, planters**, tables, chairs, heaters, **and** umbrellas, **and the like** must be stored indoors each night between January 1 and March 31 to allow for complete snow and ice removal.
    - iv. Outdoor dining patios located in an alley or passage that contains vehicular traffic are permitted April 1 through December 31 only.
    - v. An ADA compliant platform may be erected in the on-street parking space(s) in front of an eating establishment to create an outdoor dining patio from April 1 through December 31, subject to an additional review by the Advisory Parking Committee.

6. All outdoor patios shall be designed to meet the requirements of this section, as well as all applicable building and fire codes.
- C. Outdoor Dining – Design: All outdoor dining patios are subject to the following design standards:
1. All tables and chairs provided in the outdoor dining patio shall be constructed primarily of metal, wood, or a material of comparable quality as determined by the Planning Board.
  2. Outdoor dining patios shall provide and service refuse containers within the outdoor dining patio and maintain the area in good order. Public trash receptacles are not permitted to be utilized by outdoor dining facilities.
  - ~~3. All outdoor dining elements shall be contained within the defined outdoor dining patio space.~~
  4. Outdoor dining patios shall not contain enclosures as defined in Article 9, Section 9.02 of the Zoning Ordinance.
  5. In order to safeguard the flow of pedestrians on the public sidewalk, such uses shall maintain an unobstructed sidewalk width as required by the Planning Board, but in no case less than ~~6~~ **5** ft.
  6. No such facility shall erect or install permanent fixtures in the public right-of-way.
  7. Table umbrellas or other overhead weather protection shall not (1) impede sight lines into a retail establishment, (2) obstruct pedestrian flow in the outdoor dining area, (3) obstruct pedestrian or vehicular traffic flow outside the outdoor dining area, or (4) contain signage or advertising.
  8. Barriers defining outdoor patios shall be constructed of a quality and durable material, and shall be maintained and placed in a consistent and organized fashion. ~~Barriers shall be secured to the ground and/or building to maintain an immovable, clearly defined patio space.~~ Barriers may not exceed 42 inches in height ~~with the exception of planting material, or~~ **except** as permitted in subsection 9 below.
  9. Windbreaks are permitted within outdoor dining patios and shall be affixed to a barrier. The total combined height of a barrier and windbreak shall not exceed 60 inches. Windbreaks must be constructed of a clear, **rigid** and durable material. **Eisenglass and vinyl materials are prohibited.**
  10. Portable heating elements must be maintained and kept in an orderly fashion. Propane or other fuels may not be stored on public property, and are subject to the Storage and Display Standards outlined in Article 4, Section 4.67 of the Zoning Ordinance.
  11. Ancillary elements ~~such as~~ **including, but not limited to, trash receptacles,** service stations or host/hostess stands must be located within the approved outdoor dining patio, contained, and kept in a neat and orderly fashion. Service stations and host/hostess stands may not exceed 4 feet in height. The storage of dirty dishware is prohibited.

### **Article 3, Section 3.04 – Specific Standards (Downtown Overlay District)**

- C. Building Use: Buildings shall accommodate the following range of uses for the various designations on the Regulating Plan of the Downtown Birmingham Overlay District:
1. ...

2. ...
3. ...
4. ...
5. ...
6. ...
7. ...
8. ...
9. ...
10. Bistros are permitted with a valid Special Land Use Permit with the following conditions:
  - a. No direct connect additional bar permit is allowed and the maximum seating at a bar cannot exceed 10 seats;
  - b. Alcohol is served only to seated patrons, except those standing in a defined bar area;
  - c. No dance area is provided;
  - d. Only low key entertainment is permitted;
  - e. Bistros must have tables located in the storefront space lining any street, or pedestrian passage. **If the storefront area is not feasible for outdoor dining, alternative outdoor dining patio placement may be considered by the Planning Board;**
  - f. All outdoor dining patios are subject to the requirements located in Article 4, Section 4.44 of this Ordinance;**
  - g. A minimum of 70% glazing must be provided along building facades facing a street or pedestrian passage between 1 foot and 8 feet in height;
  - h. All bistro owners must execute a contract with the City outlining the details of the operation of the bistro; and
  - ~~i. Outdoor dining must be provided, weather permitting, along an adjacent street or passage during the months of May through October each year. Outdoor dining is not permitted past 12:00 a.m. If there is not sufficient space to permit such dining on the sidewalk adjacent to the bistro, an elevated, ADA compliant, defined platform must be erected on the street adjacent to the bistro to create an outdoor dining area if the Engineering Department determines there is sufficient space available for this purpose given parking and traffic conditions.~~
  - ~~j. Enclosures facilitating year round dining outdoors are not permitted.~~
  - k. Railings, planters or similar barriers defining outdoor dining platforms may not exceed 42" in height.
  - ~~l. Outdoor rooftop dining is permitted with the conditions that surrounding properties are not impacted in a negative manner and adequate street level dining is provided as determined by the Planning Board and City Commission. Rooftop dining seats will count towards the total number of permissible outdoor dining seats.~~

### Article 3, Section 3.16 – Specific Standards (Via Activation Overlay District

- A. Permitted and Prohibited Uses: To enhance the amenity and character of vias, **and** to enhance visual interest and encourage surveillance of urban spaces, active uses should be provided at the ground floor level along the majority of the edges of buildings located

adjacent to vias. While buildings should accommodate these uses, care must be taken to avoid conflict with pedestrian movement in the via. To specifically encourage the activation of vias, the following uses are permitted within Active, Connecting, and Destination Vias:

1. Retail sales and display;
2. Public plazas and informal gathering spaces;
3. **Outdoor Dining;**
4. Art display; and
5. Community Gardens.

In addition, the following ~~uses are~~ **use is** also permitted within Connecting and Destination Vias:

- ~~1. Outdoor dining; and~~
2. Special Events.

The following are specifically prohibited in all vias:

1. Automatic food and drink vending machines outdoors;
2. Drive-in facilities or any commercial use that encourages patrons to remain in their automobiles while receiving goods or services;
3. Unscreened trash receptacles; and
4. Unscreened outdoor storage.

B. ...

C. ...

## Article 9, Section 9.02 – Definitions

**Enclosure (outdoor dining):** ~~An area that may or may not contain a roof or any~~ **A** wall, panel, or **other** material **that extends above 60 in. in height which** provides **extended** relief from weather, and impedes physical and/or visual access to the space. For the purposes of this definition, enclosure does not include exterior building walls, ~~windbreaks or landscaping.~~

~~**Outdoor Café:** An outdoor area accessory to an existing restaurant operation designated for consumption of food prepared within the restaurant and subject to the provisions of this ordinance.~~

**Outdoor Dining Patio:** A defined outdoor area accessory to an existing food and drink establishment designated for consumption of food and/or drink prepared within the establishment and subject to the provisions of this ordinance.

**Permanent Fixture (outdoor dining):** Any element within an outdoor dining patio containing a foundation or other rigid attachment that prevents removal or that which requires extensive modifications to the public right-of-way.

**Planning Board & City Commission  
Meeting Minutes**

*(Chronological Order)*

Commissioner Sherman stated that this was a very routine item and accordingly moved the suggested resolution.

**MOTION:** Motion by Commissioner Sherman, seconded by Commissioner Host: To approve the cost sharing agreement with the Road Commission for Oakland County, agreeing to pay the City of Birmingham’s share of the cost to replace the traffic signal at the intersection of Coolidge Highway and Maple Road, at a cost not to exceed \$75,000, to be charged to account number 202-303.001-971.0100. Also, to authorize the Mayor to sign the agreement on behalf of the City.

In reply to a question from Commissioner Nickita, CCE Surhigh stated that the RCOC will commence the intersection upgrade designs pending the approval of this motion by the City Commission. He stated that Birmingham has been invited by the RCOC to provide input on the design.

Commissioner Nickita said this is one of the most dangerous intersections for pedestrians in Birmingham. He said that two matters of high priority for the intersection must be the addition of continental pattern crosswalks to the south and east sides, and the addition of pedestrian signals that actually function as the current ones seem never to change from ‘Don’t Walk’.

ROLL CALL VOTE: Ayes, Commissioner Sherman  
Commissioner Host  
Commissioner Nickita  
Commissioner Hoff  
Mayor Boutros  
Mayor Pro-Tem Longe

Nays, None

**12-267-20 Request for Planning Board Review of Proposed Ordinance Amendments**

Planning Director Ecker presented the item.

Some Commissioners wanted the Planning Board’s review to take into account findings of what worked or what did not work over the winter of ‘20-’21, while other Commissioners wanted the review done more expeditiously so restaurant owners could know which purchases for outdoor dining could be used during both winter ‘20-’21 and winter ‘21-’22. After discussion there was a general understanding among the Commissioners that even if this review were requested now the Planning Board’s findings would not likely be available until late spring 2021 at the earliest, which meant that the circumstances of winter ‘20-’21 could be factored into the review but that by necessity restaurant owners would not be able to use the findings to guide their purchases for outdoor dining for the ‘20-’21 season.

Commissioners asked that the Planning Board consider the following topics during their review, including that:

- The outdoor dining structures should be taken down in the summer;
- The approvals of outdoor seating should be considered vis-a-vis the type of license already held by the restaurant (bistro, Class C, etc.);
- The size of the tents should be maximized where possible since the sizes of the aisles inside the tents are dictated by building code;
- Issues that have already arisen with outdoor dining during the winter of ‘20-’21 should be discussed; and,
- The differences between outdoor dining that would be on public or private property, offer alcohol or not, or other potential variations should be addressed.

**MOTION:** Motion by Commissioner Hoff, seconded by Commissioner Sherman: To direct the proposed ordinance amendments Chapter 126, Zoning, Article 4, Section 4.44 to the Planning Board for their review and recommendation.

ROLL CALL VOTE: Ayes, Commissioner Hoff  
Commissioner Sherman  
Commissioner Nickita  
Commissioner Host  
Mayor Boutros  
Mayor Pro-Tem Longe

Nays, None



**Birmingham City Commission /  
Planning Board Workshop Session  
Monday, June 21, 2021**

**7:30 p.m.**

**Virtual Meeting via ZOOM**

**Vimeo Link: <https://vimeo.com/event/3470/videos/563053049/>**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Pierre Boutros called the meeting to order at 7:30 p.m.

**II. ROLL CALL**

Commission

ROLL CALL:

Present:

Mayor Boutros  
Mayor Pro Tem Longe  
Commissioner Baller  
Commissioner Host  
Commissioner Hoff  
Commissioner Nickita  
Commissioner Sherman

All located in Birmingham, MI.

Planning Board

ROLL CALL:

Present:

Chair Scott Clein  
Robin Boyle  
Stuart Jeffares  
Bert Koseck  
Daniel Share  
Janelle Whipple-Boyce  
J. Bryan Williams  
Jason Emerine, alternate

All located in Birmingham, MI.

Absent:

Nasseem Ramin, alternate  
Daniel Murphy, student  
Jane Wineman, student

Administration: City Clerk Bingham, Planning Director Ecker, Building Official Johnson, City Attorney Kucharek, City Manager Markus

**III. ITEMS FOR DISCUSSION**

Mayor Boutros explained the purpose of the joint workshop session and the meeting procedures that would be followed.

A. **Outdoor Dining Discussion**

PD Ecker introduced the item.

Chair Clein said it would be most helpful to know whether the Commission wanted the Planning Board to conduct a broad review of the outdoor dining ordinances or whether the Commission wanted the Board to focus on discussion enclosures.

Discussion generated a number of items for the Board to consider, including:

- What issues City departments encountered while the temporary outdoor dining standards were in place;
- Whether encroachment upon neighbors' properties might be permissible with the consent of the neighbors;
- How to ensure that potential year-round outdoor dining does not become de facto indoor dining;
- How to deal with matters of capacity, sidewalk clearance, ADA compliance, excessive uses of public space including public parking, summer versus winter regulations, public versus private regulations;
- How other municipalities, nationally and internationally, address outdoor dining;
- How expanded outdoor dining would impact the City's various mixed-use districts;
- How to make sure that the ordinance is enforceable;
- How to approach differences between bistro, Class C, economic development licenses, theater/hotel/onsite brewing, and non-alcoholic outdoor dining;
- Whether platforms are consistently necessary for outdoor dining;
- How to deal with snow and street sweeping;
- Whether minimizing covered space in the public right-of-way would be appropriate;
- How to ensure that outdoor dining is held to similarly consistent and high standards as buildings are in Birmingham;
- Whether all outdoor dining structures have to have roofs or walls year-round; and,
- How climate control might be used to mitigate colder weather without requiring complete enclosures.

The consensus was that the Board should review the outdoor dining ordinance overall and that their focus should not be limited to enclosures.

#### Public Comment

Blake George, restaurant owner, stated that the popularity of outdoor dining in the last year was often due to indoor dining being unavailable. He said it would be harder to persuade diners to dine outside in the colder months without a roof or partial protection from the wind. He stated that changing restrictions are hard on the restaurant owners and employees. He asked the Commission and Board to note that one size would not fit all in making these regulations, since restaurants operate in a variety of circumstances.

Joe Bongiovanni, restaurant owner, asked the Commission to consider maintaining the current temporary outdoor dining standards. He said the discussion was an encouraging one, and said that Summer 2020, despite the many difficulties, was the best summer for outdoor dining in the City thus far.

#### B. Parking Standards Discussion

06-087-21

**G. Miscellaneous Business and Communications**

**a. Communications - Live meetings starting in July 2021**

**b. Administrative Approval Correspondence**

PD Ecker notified the Board that the HDC requested changes to Bloom Bistro's plans. She asked whether the Board wanted to review the updated plans once available.

After brief Board discussion, it was decided that the Planning Board would only review the project again if the updated plans included changes to the site plan.

**c. Draft Agenda for next meeting**

**d. Other Business**

Chair Clein summarized his understanding of the directives from the Commission regarding outdoor dining and parking standards.

The Board agreed that the goals of the outdoor dining review would be to:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;
- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

Public Comment

Joe Bongiovanni expressed optimism about the upcoming review of outdoor dining and said he looked forward to participating in the discussions. He said that in terms of his restaurants, Market North End and Luxe might both be good case studies in that the outdoor dining at Luxe might be appropriate for longer-term whereas the outdoor dining at Market North End would be less so.

In terms of timing, the Board concurred that outdoor dining would be the second priority after the master plan second draft and that study sessions in July and August would focus on outdoor dining. The aim would be to have new ordinances in place for the 2021-2022 fall/winter dining season.

The Board agreed that the goals of the parking standards review would be to determine whether the City's current zoning requires too many spaces for certain types of uses or in certain contexts. They agreed that they would compare Birmingham's standards to other municipalities to see how those issues are addressed elsewhere.

Mr. Boyle recommended the City consider hiring a consultant to help guide the review of the parking standards, stating that it is an enormous and serious topic that should not be addressed on the fly.

Chair Clein said the Board could start to get a broad idea of the topic, and could concurrently discuss with PD Ecker and CM Markus whether there is a need, willingness, or budget to bring on a consultant to guide the process.

Mr. Williams asked Chair Clein to communicate the Board's understanding of these two charges to make sure there are no misunderstandings from the outset.

Mr. Share stated that the parking issue would be best guided by the master plan, and recommended that the Board's studies of the issue do not get excessively in-depth until the master plan's recommendations on parking are more clear.

Mr. Boyle concurred with Mr. Share and suggested that parking could be discussed as part of the review of the second master plan draft.

The Board concurred that this would be the third priority on their action list.

Chair Clein said that the Board and Staff should begin familiarizing themselves with the factors that go into devising parking standards as preparation for the Board's review of the subject.

#### Public Comment

Mr. Bloom said that parking is the largest issue facing Birmingham aside from unimproved streets and encouraged the Board to face the task of reviewing parking standards accordingly.

**06-088-21**

#### **H. Planning Division Action Items**

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

It was discussed that the ordinance should require the signs to be “visible from a public right-of-way” to clarify where the signs should be located.

Mr. Koseck recommended getting rid of the tree and boulevard graphics on the signs.

Staff said they would update the recommended language for Article 7, Section 7.29 to clarify that this ordinance only applies to Historic District Commission reviews of non-historic buildings in historic districts.

**Motion by Mr. Williams**

**Seconded by Mr. Boyle to schedule a public hearing for the amendment of Article 7, Section 7.29 and Article 7, Section 7.01(b), to August 11, 2021 with changes as noted.**

**Mr. Jeffares said that while he respected his colleagues’ perspectives he would be voting no on principle.**

**Motion carried, 6-1.**

VOICE VOTE

Yeas: Boyle, Ramin, Koseck, Clein, Williams, Emerine

Nays: Jeffares

CP Dupuis said this would be an excellent Engage Birmingham topic to explore how much detail residents want to see on the signs.

**2. Outdoor Dining**

CP Dupuis presented the item.

Mr. Boyle noted that many examples of the outdoor dining he was seeing occur on private property, and that Birmingham is considering how to deal with outdoor dining on public property. He noted there are key differences in those considerations. He stated that when outdoor dining occurs on public property in Europe it often is on very wide sidewalks or in squares adjacent to the cafes.

Mr. Jeffares noted that Birmingham’s sidewalks keep getting wider. He said outdoor dining in Europe would not be a perfect match to Birmingham but that there would still be things to learn from those examples.

Chair Clein told CP Dupuis that he appreciated the high level start to the discussion.

Board members listed aspects of outdoor dining that would need discussion and/or further research in order to make ordinance recommendations. Those aspects included whether there should be a year-round set of standards, or two sets of standards for the warmer and colder months; how pop-ups and social districts might be related; what national downtown associations are discussing and recommending for outdoor dining; how winter resort towns like Aspen or Vail

handle cold-weather outdoor dining; creating some appearance standards for outdoor dining and related utilities; whether outdoor dining should be on both sides of a pedestrian path or in parking spaces; how the building, energy, and plumbing codes relate to outdoor dining; how outdoor dining relates to clear width of the streets, travelled ways, and shy distances; the differences between walls versus windbreaks, weather protection versus roofs, and temperature mitigation versus full climate control; the perspectives of City Departments; and, how to minimize potential conflict between restauranteurs and their retail neighbors.

CP Dupuis noted that the City had begun soliciting feedback from residents on the Covid-19 outdoor dining, and that the feedback regarding outdoor dining had been overwhelmingly positive. He said some of that information could be relevant to these proceedings.

PD Ecker encouraged residents to visit Engage Birmingham on the City's website in order to provide their feedback.

#### Public Comment

Joe Bongiovanni of Market North End said that a detached deck in wintertime may not have a lot of value to restauranteurs. He said that one of the main questions seemed to be whether the City would continue to give up parking spaces for dining decks. He recommended that outdoor service remain close to the entrance/exit of a restaurant.

Chair Clein thanked Mr. Bongiovanni and asked him to stay involved in the ongoing outdoor dining discussions.

PD Ecker said that Staff would bring the item back to the Board in parts in order to maintain momentum on the issue.

**07-096-21**

### **G. Miscellaneous Business and Communications**

- a. Communications**
- b. Administrative Approval Correspondence**
- c. Draft Agenda for next meeting**
- d. Other Business**

The possibility of scheduling a second Board meeting for September 2021 was briefly discussed.

**07-097-21**

### **H. Planning Division Action Items**

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

**07-098-21**

### **I. Adjournment**

ROLL CALL VOTE

Yeas: Share, Williams, Boyle, Koseck, Jeffares, Clein, Whipple-Boyce

Nays: None

**Motion by Mr. Share**

**Seconded by Mr. Williams to recommend approval based on a review of the site plans submitted of the Final Site Plan and Design Review to the City Commission with the following conditions: 1. The applicant will be required to reduce the length of the platform to be less than the storefront width to retain two unobstructed on street parking spaces between the platform and the corner to the south; 2. Obtain a favorable recommendation from the Advisory Parking Committee prior to City Commission review; 3. The Commission consider a sunset date with the possibility of amendment based on a change in ordinance, if it occurs, and on the advice of the City Attorney; 4. The applicant complies with the requirements of all departments; and, 5. The applicant submits an updated final site plan showing the reduced deck and clear relation to parking spaces on the site for administrative approval and submission to the Advisory Parking Committee.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Share, Williams, Boyle, Koseck, Jeffares, Clein, Whipple-Boyce

Nays: None

**08-114-21**

**G. Study Session**

**1. Outdoor Dining**

CP Cowan presented the item.

Discussion by the Board members noted:

- Keeping diners safe from traffic should be addressed;
- The reasons for seeking a change in the ordinances should be clarified;
- The difference between Class C and bistros should be preserved;
- The difference between wind breaks and walls should be clarified;
- The Board should review tickets issued under the Covid-19 expanded dining and photos of the outdoor dining during the same period;
- It would be most appropriate to design guidelines for a trial period since achieving a permanent solution during a shifting pandemic would be unlikely;
- Definitions should be provided for concepts such as enclosure, structure, roof and wall;
- Given the National Restaurant Association's focus on carryout more than outdoor dining, perhaps the APC or other City body should consider temporary parking zones on certain blocks to better facilitate carryout;
- DPS concerns would be included in the contracts on outdoor dining for restaurants but need not be part of the ordinance considerations;

- The desired relationship between the restrooms available and the number of exterior seats should be considered;
- The current ordinance should be evaluated for what should be changed or updated, and should be considered in terms of whether it should apply for eight months or year-round;
- Input from the restaurateurs and the BSD should be provided to the Board;
- The travel way, impacts on road, and pedestrian way are likely to be more code than ordinance issues;
- The permissions granted for outdoor dining might appropriately vary from zone to zone in the City.

## **2. Wall Art**

CP Cowan presented the item.

It was clarified that:

- Maintenance issues with wall art would be a code issue;
- 'Content' is not something that can be regulated, but 'non-commercial', 'aesthetically appropriate' or 'compatible with the area' could work;
- It would be useful to have a brief statement in Article 7, Section 7.41 about the benefit and value of wall art;
- The intent of the word 'facing' should be made more clear in the proposed amendment to Article 9 - Definitions To Define Wall Art And Determine Permitted Locations For Wall Art;
- Wall art approval would be a standalone process and not subject to site plan approval, though site plan approval would be granted at the Planning Board contingent on the wall art's approval by the appropriate boards; and,
- This ordinance amendment does not intend to allow a new building to create a blank wall in excess of 20 feet with the intent of installing wall art; it intends to allow already-existing blank walls that qualify according to the ordinance amendments to consider installing wall art.

Mr. Share noted that often wall art in other cities is not painted directly on buildings, but on canvas-type features.

Staff said they would make the recommended revisions and return with the item.

**08-115-21**

## **H. Miscellaneous Business and Communications**

### **a. Communications**

ACM Ecker introduced a pre-application discussion request from the owner for 220 Park.

Chris Longe, architect, and Jeff Hutchinson, owner, were present on behalf of the potential application and walked through the proposal to convert an existing office building into a residential building.



Seconded by Mr. Jeffares to approve the Preliminary Site Plan for 325 S. Eton Street with the following conditions:

1. The applicant provide a public access easement to the City to accommodate the required space to install required street trees and street lights in a manner consistent with the Eton Street Corridor and to maintain a 5 foot public sidewalk;
2. The applicant provide plans indicating one Rail District City standard street lamp and one street tree for every 40 feet of frontage for Final Site Plan Review;
3. The applicant provide plan indicating additional public amenities along S. Eton Street including Rail District standard benches, bike, racks, and refuse containers for Final Site Plan and Design Review;
4. The applicant apply for a Special Land Use Permit to have greater than 6,000 square feet of commercial space on the first floor in the MX zone;
5. The applicant apply for design review by the Historic District Committee;
6. The applicant provide a first floor ceiling height of 12 feet for the 1st floor in the MX zone;
7. The applicant label materials and dimensions for the dumpster screen wall and gate for FSP review to verify all dumpster screening requirements are met;
8. The applicant properly screen the ground level transformers with landscaping 5' in height; and,
9. Provide all specification sheets including but not limited to building materials, screening materials, signage, streetscape items, glass, light fixtures, mechanical units and landscaping be included for Final Site Plan and Design Review.

Motion carried, 7-0.

VOICE VOTE

Yeas: Williams, Jeffares, Clein, Whipple-Boyce, Koseck, Share, Ramin

Nays: None

09-135-21

## H. Study Session Items

### 1. Outdoor Dining

CP Dupuis reviewed the item.

Topics raised for further consideration included:

- Whether to allow full, partial, or no walls;
- If allowing walls, what height, transparency, and materials should be permitted;
- Whether to allow overhead coverings or just umbrellas;
- How to distinguish between wind breaks and walls;
- How to define enclosures, roofs, and sides;
- Whether to have different allowances for MX areas and the central business district;

- Whether to have different allowances for public and private properties, and what to do if a business has outdoor dining that uses both;
- Changing 'improving' public health to 'protecting' public health;
- Whether to require some kind of barrier to protect the required five-foot clear path for pedestrians;
- How to make outdoor dining operations both more standardized and more efficient, with ideas including: tables with heating elements below the table tops, standardizing the permitted heating elements, having a layout with a shared fire and tables around the fire -- if safe, whether the BSD might look into hiring one unified contractor to replace and refill propane tanks, and how the heated sheds in Northville, MI could provide a model for standardization;
- Whether to create a bit more flexibility in allowing outdoor dining in front of neighboring businesses with consent;
- Whether artificial turf or plants should be permitted;
- Whether there should be some reference in the Intent to how outdoor dining at restaurants can allow people to be together in a pandemic when other options may be less safe or available;
- How the requirements of the plumbing code are enforced for outdoor dining without decks;
- Whether natural gas or electricity might be more appropriate than propane tanks for helping to provide heat;
- What specifications should be made for allowed materials;
- How to replace 'restaurants' with a broader word that encompasses other establishments like cafes or ice cream shops;
- How to specify that part of the goal is to protect the public use of public property; and,
- Whether an establishment should be permitted to have outdoor dining on both a sidewalk and a deck.

CP Dupuis stated that the BSD was working on developing comments for the discussion, and hoped to have them ready by October.

Ms. Whipple-Boyce asked that departments elaborate their reasons when making recommendations that are not part of the legal requirements.

Chair Clein thanked the APC for their feedback and said he wanted to make sure they remained involved in the process. He said he was a little concerned about how the City would limit the number of decks per block, and whether outdoor dining should be permitted on a first-come, first-serve basis, but said that otherwise he agreed with the bulk of the APC's comments.

There was Board consensus that the City should require outdoor dining plans to be professionally done.

**09-136-21**

**I. Miscellaneous Business and Communications**  
**a. Communications**

SP Cowan presented the item.

Ms. Whipple-Boyce and ACM Ecker recommended that 'of the proposed location' be struck from the last line of 7.41 Wall Art Review: Purpose.

SP Cowan and ACM Ecker confirmed for Mr. Share that wall art would not be permitted on rear walls facing single family residential areas.

SP Cowan reviewed the different proposed review processes for a development with wall art, just wall art with a proposed location, and just wall art without a proposed location.

**Motion by Mr. Share**  
**Seconded by Ms. Whipple-Boyce to set a public hearing to consider amendments to Article 7, Section 7.41 to 7.46 and companion sections of Article 9 of the Zoning Ordinance on October 27, 2021.**

**Motion carried, 6-0.**

VOICE VOTE

Yeas: Share, Whipple-Boyce, Emerine, Williams, Jeffares, Boyle

Nays: None

## **2. Outdoor Dining**

PD Dupuis reviewed the item.

After discussion and with the exception of Ms. Whipple-Boyce, the Board concurred that wind breaks should be permitted on up to three sides with clear glass above 42 inches and a maximum height of 60 inches.

Mr. Jeffares suggested that umbrellas could be permitted in the summer and retractable awnings might be an all-season option. He noted that the awnings would have to be retracted every night.

ACM Ecker noted that the awnings would have to be higher than eight feet off the ground.

Mr. Share and Ms. Whipple-Boyce expressed concern that restaurant awnings that cover the entire sidewalk can deter pedestrians from using the sidewalk.

It was suggested that perhaps awnings could come out partially into the sidewalk and the rest would have to be covered by umbrellas.

Ms. Whipple-Boyce said she wanted to see more information about retractable awning options.

The Board said they would not likely limit the color options for retractable awnings.

It was noted that the Board still needed to hear preferences and concerns from both restaurateurs and retailers.

Mr. Share and Vice-Chair Williams said coverings for outdoor dining should not be required to handle snow loads.

There was general Board consensus that coverings would only need to protect from sun, rain, and possibly light snow.

Ms. Whipple-Boyce recommended the City look into sail shades that would protect against light inclement weather and sun. She said that could also help standardize some of the outdoor dining aesthetic.

In regards to retractable awnings, PD Dupuis noted as a point of consideration that the City recently revised its ordinance regarding projections into the right-of-way. He also noted that some awnings would be required to have fire suppression systems depending on their size.

The matter of allowing igloos was raised but not decided.

SP Cowan said the Board would also need to figure how to clearly define a 'side' in the ordinance in regards to windbreaks.

#### Public Comment

Mitch Black, owner of Dick O'Dow's, said he would support outdoor dining that was more open than many of the prior temporary outdoor dining structures. He said that enclosed outdoor dining in the winter can cause bistros to be more like Class C license holders. He said some standardization of outdoor dining aesthetics between establishments would be positive. He stated that those design and functional elements should not be cost prohibitive but should be high quality. He said a retractable awning was likely preferable to umbrellas, but that many operators may not be able to afford the cost.

**09-148-21**

### **J. Miscellaneous Business and Communications**

#### **a. Communications**

#### **b. Administrative Approval Correspondence**

PD Dupuis presented a request from Dick O'Dow's to receive a waiver of the glazing requirement.

After brief discussion, the Board concurred that a waiver was reasonable.

#### **Motion by Mr. Share**

**Seconded by Mr. Emerine to grant a waiver to 160 W Maple Rd - Dick O'Dow's - under Section 4.90(e) of the Zoning Ordinance to reduce their glazing percentage within the first eight feet from 70% to 52%.**

**Motion carried, 6-0.**

appropriate on Mondays when brick-and-mortar restaurants are often closed. He also said he would not view them as encroaching into the neighborhoods.

A Birmingham resident stated he and his wife were food truck operators and could provide insight into what would be required to make Birmingham attractive for food truck operators.

Mayor Boutros recommended the aforementioned member of the public reach out to PD Dupuis to further discuss his experiences operating a food truck.

## B. Outdoor Dining

PD Dupuis introduced the item.

There was general consensus that full enclosures should not be permitted as part of an expansion of the outdoor dining standards.

Commissioner Nickita said he was in favor of finding ways to activate the streets in winter. He noted that there are occasionally warmer days in winter where dining outside would be pleasant.

Mr. Koseck said architectural standards and codes' impact on outdoor dining would require further study.

Commissioner Nickita recommended exploring how other local municipalities have interpreted and enforced building, plumbing, fire or other codes for winter outdoor dining. He stated that guardrails much shorter than 42 inches might suffice and asked the Planning Board to look into it further.

Mayor Pro Tem Longe, Commissioner Nickita and Mr. Jeffares concurred that snow clearing or similar needs could be figured out and should not be treated as an impediment to winter outdoor dining.

The Mayor Pro Tem said that restaurant staff might be willing to help clear the street in front of their restaurants.

Commissioner Baller stated that it was not the City's responsibility to legislate to protect certain kinds of dining establishments. He noted outdoor dining's overwhelming popularity per the Engage Birmingham survey and said it likely did not matter to residents whether a particular establishment was a bistro or Class C license holder. He said it was worth considering relaxing the bistro outdoor dining standards for the winter months since people are in favor of being able to dine outside.

Mr. Jeffares said he was not overly concerned with maintaining the distinction between Class C and bistro outdoor dining since colder temperatures would cause outdoor dining to be self-limiting regardless. He said if outdoor dining decks were not being used by an establishment during the winter they should be taken inside.

Mayor Pro Tem Longe and Mr. Boyle also both noted the overwhelming popularity of outdoor dining according to the Engage Birmingham survey and said it was the City's responsibility to

figure out how to deliver that option to residents. They both noted the importance of being responsive to feedback received.

Mr. Jeffares and Mayor Pro Tem Longe said the City needed to determine what it would do on November 15, 2021 while the study of outdoor dining standards was still on-going.

Mayor Boutros said it would be important to determine whether there is demand for winter outdoor dining from restauranteurs, especially in light of current staffing difficulties in the service industry.

Chair Clein noted that the Planning Board would not make changes to the distinction between bistro and Class C licenses since that falls under the Commission's purview. Consequently, he said the Planning Board was focusing on keeping them distinct while trying to determine what outdoor dining allowances would be appropriate. He stated that the decision about what to do for Winter 2021-2022 was a Commission one since the Planning Board would not have its ordinance recommendations ready by then.

Commissioner Baller said the Commission should discuss the matter of outdoor dining during Winter 2021-2022 during its next two meetings.

Commissioner Sherman said there could be temporary regulations for Winter 2021-2022.

Allowing decks to remain and allowing wind breaks were mentioned as possibilities for Winter 2021-2022.

Commissioner Hoff observed that dining establishments already had an option in the City for offseason outdoor dining and suggested that no changes be made for Winter 2021-2022. She said that perhaps the City could not charge for offseason licenses during this season only as a compromise.

CM Markus stated that the Birmingham Shopping District was in the process of collecting feedback from its members regarding the potential expansion of the outdoor dining standards.

Commissioner Baller said he did not want to see the outdoor dining standards stem the creativity of the restauranteurs too much.

Mr. Williams, Chair Clein, Mr. Jeffares spoke in favor of having some sort of trial period once the ordinance recommendations are determined. Mr. Jeffares specified that they would have to make clear to the restauranteurs that it would be a trial period.

CM Markus expressed concerns about the management and enforcement that will be required of Staff for trial periods.

Commissioner Baller said the City would have to ensure that the costs to the City are outweighed by the benefits.

Mr. Share said the Planning Board was not looking to guarantee all-weather dining.

Mr. Share, CM Markus and Commissioner Hoff all commented on the importance of preventing outdoor dining from encroaching beyond its permitted areas.

### Public Comment

Anthony Long said residents would need to know what outdoor dining might look like to provide relevant feedback. He recommended posting another survey to Engage Birmingham with descriptions. He also concurred with prior comments that the restaurateurs' interest in having outdoor dining needs to be ascertained. Mr. Long also recommended extending outdoor dining through the winter since Covid-19 remains an issue, and then soliciting further feedback from the public and restaurateurs then.

Mr. Bloom said it would be positive if the Planning Board could recommend temporary standards for Winter 2021-2022. He said the City should also consider two sets of outdoor dining standards: one for normal circumstances and one for ongoing Covid-19 issues.

#### C. 2040 Master Plan Update

PD Dupuis introduced the item.

Chair Clein, Mr. Williams and Commissioner Baller all noted that the Planning Board was presently working with the second draft of the master plan, and not with a finalized document.

Commissioner Nickita said the Planning Board should pay specific attention to what changed between the first and second drafts.

PD Dupuis confirmed that would be the case.

Commissioner Baller said more attention should be paid to the presentation of the Master Plan, including keeping maps on one page and with legible street names. He said the presentation should make it easy for residents to review.

In reply to Mr. Share, PD Dupuis said that in addition to speaking at Planning Board meetings members of the public could submit feedback on the Master Plan directly to staff or at [thebirminghamplan.com](http://thebirminghamplan.com).

Mr. Williams encouraged the public to attend Planning Board meetings and submit feedback. He said there were likely to be a number more changes before review of the second draft is completed.

Mr. Boyle noted Commissioners Nickita, Sherman and Hoff were stepping down in November and acknowledged them for their contributions to the City.

### Public Comment

Mr. Bloom said he would like to see redline maps to see what how the maps changed from draft one to draft two. He expressed concern about some of the draft's recommendations and said he wanted to make sure they would all be thoroughly vetted. He said he also wanted to ensure that residents' concerns about the draft would be taken into account.

Yeas: Share, Williams, Jeffares, Whipple-Boyce, Boyle, Clein, Koseck  
Nays: None

## 2. **Outdoor Dining**

PD Dupuis presented the item.

FC Wells described aspects of the Fire Code relevant to outdoor dining.

Chair Clein summarized that there seemed to be Board, Commission and public consensus that the on-/off-season distinction for outdoor dining should be eliminated, thus allowing those permitted for outdoor dining to maintain it year-round.

Ms. Whipple-Boyce and Messrs. Jeffares, Boyle, and Share were in favor of prohibiting dining decks for some period during January, February, and March, and allowing them all other times.

Mr. Jeffares said restaurants that only had an option for dining decks for outdoor dining could potentially pursue a variance in that case.

Mr. Koseck said he would also be concerned about the damage that could potentially be done to the decks by snow plows in winter.

PD Dupuis noted that decks could be required to be slimmer in order to be less effected by snow plows. He also noted the Board would have to clarify whether the Board was discussing all decks or only decks in the street.

Chair Clein and Mr. Williams were initially not in favor of restricting the use of decks during the winter. Chair Clein noted that decks were popular with both the Commission and the public, and cautioned that restricting their use might not be what the Commission wanted.

There was discussion that the decks would likely be underused in the coldest parts of winter and would lead to deactivation of the streets.

Chair Clein and Mr. Williams said they would be willing to consider a deck prohibition that starts on January 1, with an end date in February or March to be determined.

Mr. Williams said the requirements of fire suppression might affect where establishments are able to locate their outdoor dining.

Mr. Koseck said fire suppression would not likely overly affect establishments, saying that the requirements may be relatively simple in many cases.

Mr. Jeffares concurred, citing a conversation with a restaurant owner who retrofitted their outdoor dining area for fire suppression and said that it was simpler and less costly than anticipated.



Mr. Share noted the Board need not create an ordinance that allows every establishment to have outdoor dining year round. He suggested that the Board could recommend a trial without decks and then could add them the following year if they remained in demand.

Mr. Jeffares agreed with Mr. Share's recommendation of a trial.

It was confirmed that all decks would be evaluated according to building, plumbing, and other codes, including restroom-to-diner ratios.

Ms. Whipple-Boyce recommended that dining establishments be able to leave their furniture out overnight in winter. She also recommended that dining establishments be required to clear the snow from their frontage if they do leave their furniture out.

As for outdoor weather protection, Mr. Boyle said he most preferred large, relatively immovable umbrellas.

Mr. Jeffares and Ms. Whipple-Boyce said they liked the covering of the outdoor dining deck at Toast.

Mr. Jeffares said he also liked retractable awnings, with the caveat that it not encroach into the five-foot pedestrian clearance.

Ms. Whipple-Boyce said she liked immovable umbrellas, shade sails, and butterfly awnings. She said she wanted more information on the housing sizes for retractable awnings.

While there was Board unanimity that outdoor dining coverings should not encroach into the five-foot pedestrian clearance, there was also some discussion that on larger sidewalks the outdoor dining coverings could be larger than the projection ordinance currently allows.

Mr. Share recommended a minimum height be considered for outdoor dining coverings.

Chair Clein said he did not like retractable awnings and said he did like umbrellas and some other coverage options. He noted that if most outdoor dining ends up adjacent to the building for part of the winter then the current projection ordinance would not afford the dining area much protection from the elements.

PD Dupuis said he would return with photos of fire suppression at Bistro Joe's and Market North.

Chair Clein requested verification that the City Manager, Building Official and DPS want outdoor dining railings drilled into sidewalks. He also noted the importance of maintaining the five-foot pedestrian clear path for the benefit of pedestrians and those with disabilities. He noted that the Department of Justice had sent a letter to Birmingham and other communities about violations of the ADA stemming from outdoor dining platforms and encroachment into the five-foot pedestrian clear path by outdoor dining.

Board consensus remained on windbreaks, noting that they would have to maintain the five-foot pedestrian clear path, have a prescribed height, not attach to buildings, and be clear above 42 inches.

Ms. Whipple-Boyce said she had grown more accepting of windbreaks, saying she would be willing to evaluate proposals on a case-by-case basis.

Chair Clein said he would be willing to consider wind break proposals of up to four sides and 60 inches in height.

Ms. Whipple-Boyce concurred.

It was noted the Board still had to determine recommendations for wind break material.

The Board agreed to further discuss whether an establishment should be permitted outdoor dining in the street and adjacent to the restaurant at the same time.

PD Dupuis said he anticipated that the Birmingham Shopping District would be submitting their feedback to the Board in November.

Chair Clein said he thought the Board could have outdoor dining ordinance recommendations to the Commission in Quarter One of 2022.

In reply to the Commission request that the Board recommend options for outdoor dining during Winter 2021-2022, the Board suggested that outdoor dining be allowed to continue as-is beyond the November 15, 2021 date for this winter and that outdoor furniture be allowed to remain outside in the evenings. It was noted that this recommendation would be replaced by the finalized outdoor dining recommendations once they are completed.

The Board said they would hold a public hearing on the recommendation on November 10, 2021.

## **10-172-21**

### **K. Miscellaneous Business and Communications**

#### **a. Communications**

#### **b. Administrative Approval Correspondence**

PD Dupuis presented a request from Hearthside Condos on Southfield Road.

After discussion, the Board said they needed more information about potential drainage issues in the rear of the building to know whether the request could be administratively approved or should be submitted to the Board.

#### **c. Draft Agenda for next meeting**

#### **d. Other Business**

Mr. Williams said further exploration of zoning to allow main-floor additions, instead of vertical additions like ADUs, would likely be more beneficial in terms of keeping seniors in the community.

Ms. Whipple-Boyce said she was curious to learn more about ADUs and was glad they had not been eliminated entirely from the draft Plan. She said study of ADUs would be appropriate.

Chair Clein concurred with Ms. Whipple-Boyce, adding that he was not persuaded that denser areas were the appropriate trial locations for ADUs.

Chair Clein responded to Mr. Bertollini's comments. The Chair noted that sometimes broader Master Plan efforts supersede more local Master Plan efforts, as may be the case with the 2040 Plan and the Kenning Park Master Plan. Chair Clein acknowledged that can be disappointing when one has put effort into the more local Master Plan, but can also be necessary when trying to plan for a whole community. He concluded by stating that he did not believe the best use for the northeast corner of Eton and Lincoln was pickleball or tennis courts.

Chair Clein thanked all participants.

## **2. Outdoor Dining (End Date)**

PD Dupuis and Chair Clein introduced the item.

There was no Board or public comment or inquiry.

### **Motion by Mr. Williams**

**Seconded by Mr. Boyle to recommend approval to the City Commission the ordinance amendments to Article 4, Section 4.44, Outdoor Dining Standards, to remove temporal restrictions on outdoor dining patios in the public right-of-way, and to allow outdoor dining fixtures and furnishings to stay outside overnight.**

**Motion carried, 7-0.**

### **ROLL CALL VOTE**

Yeas: Williams, Boyle, Koseck, Share, Whipple-Boyce, Clein, Jeffares

Nays: None

## **3. Outdoor Dining (Comprehensive)**

PD Dupuis reviewed the item. He noted that an establishment's outdoor dining is restricted in most cases by ordinance to only being in front of said establishment's storefront.

Mr. Jeffares stated that while the resident survey on Engage Birmingham regarding outdoor dining had hundreds of respondents, he had heard from Birmingham Shopping District (BSD) members that very few business owners participated in writing the letter from the BSD to the Planning Board. He noted that page six of the BSD letter specified that the BSD received minimal feedback

from business owners. He recommended that the Board not give the letter from the BSD disproportionate weight given the rate of participation.

Chair Clein said Mr. Jeffares' point was fair and that the perspectives of the BSD members still needed to be taken into account as property and business owners in the City.

**Motion by Mr. Williams**

**Seconded by Mr. Jeffares to receive and file an email from Joe Bongiovanni to PD Dupuis dated December 7, 2021.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Williams, Jeffares, Boyle, Koseck, Share, Whipple-Boyce, Clein

Nays: None

Chair Clein noted that the email was signed by both Joe and Kristen Bongiovanni. The Chair summarized that the Bongiovannis recommended outdoor dining be enclosed and heated during colder months, and that they stated the lean-to Luxe had would likely meet guest expectations while not meeting pedestrian expectations. The Bongiovannis also recommended retractable awnings that cover a wider width of the sidewalk and at a lower height to protect against inclement weather.

Mr. Williams stated the Bongiovannis' perspective was largely opposite of what was contained in the BSD's letter. Mr. Williams said it was unlikely that all stakeholders would reach an agreement about how to approach outdoor dining. Mr. Williams said he was not in favor of fully enclosed outdoor dining but remained in favor of being able to provide protection from inclement weather during months of the year when people may want to dine outdoors.

Mr. Koseck said he was comfortable either with maintaining the outdoor dining as it was prior to Covid-19 or bringing in professionals to study the options and make recommendations. He said that changing the outdoor dining standards was a complex enough undertaking that the City should have outside assistance.

Chair Clein said that if the Board were at more of an impasse he might agree with Mr. Koseck, but that there were already a number of points of agreement among the Board members. He cited the Commission's and Board's agreement that there should not be full enclosures as one example.

Chair Clein said the Board must first determine the purpose of expanding outdoor dining. He said that decision would then help guide the further recommendations the Board would make.

In reply to the Chair, Mr. Share ventured that not all days or times of day would be appropriate for outdoor dining. He stated that pedestrian access and other accessibility concerns should all be appropriately addressed. He said that the purpose of this study would be creating opportunities to seize the infrequent times between November and April when outdoor dining would be appropriate, and to preserve the look, feel and utility of the City. He said he would prefer to err

on the side of maintaining access over drastically increasing the number of days that outdoor dining would be feasible. He said those would be possible criteria for guiding the study.

In reply to the BSD letter, the Chair noted that hours of operation are a SLUP matter and not an outdoor dining one.

After Board discussion, Chair Clein summarized the matters to be decided regarding outdoor dining. Those matters included:

- Whether establishments with liquor licenses and establishments without liquor licenses should be handled differently;
- Whether there should be on-season and off-season dates for outdoor dining, and what should happen to furniture and other equipment on public property if there are different 'seasons';
- Whether establishments should be permitted outdoor dining on both a sidewalk and a deck if requested, and if not, what the City wants to incentivize instead;
- What types of coverings and equipment should be allowed, and how specific the standards should be in terms of material, location, and other considerations;
- Whether outdoor dining should be permitted to extend beyond the storefront of an establishment, and if so, what the limitations should be;
- Whether outdoor dining decks should be limited to a certain number per block; and,
- Whether outdoor dining in public space and outdoor dining in private space should be regulated differently.

Mr. Williams asked PD Dupuis to get a clear opinion from the BSD regarding whether the number of outdoor dining operations on a block should be limited and/or clustered in some way.

Mr. Boyle noted the City already has outdoor design standards that the Board can use to inform the discussion.

Chair Clein said it would be helpful for PD Dupuis to provide, if possible:

- A map with all non-liquor, bistro, and Class C establishments in the City;
- The number of parking spaces per street in the central business district; and,
- A compilation of all existing outdoor dining standards in the ordinance.

Mr. Jeffares asked PD Dupuis to seek clarification from the Fire Marshal about how an awning that is more than four feet wide and made of a non-combustible material would be handled.

Ms. Whipple-Boyce and Mr. Jeffares said it could be helpful to learn more about social districts, especially since it could help address a concern about too many potential outdoor dining decks on particular blocks.

Chair Clein said hearing about social districts might be helpful anecdotally, but that the Board was not tasked with studying social districts and should be careful not to overly focus on the topic.

Mr. Share noted any recommendations made by the Board can be observed post-implementation and then amended later if need be.

Chair Clein said the Board could likely make initial recommendations on a majority of the matters, while some of the other decisions could be potentially delayed to see how the initial implementation goes.

Chair Clein also recommended that a poll be posted to Engage Birmingham sometime in the new year to ascertain whether the public was actually interested in al fresco outdoor dining, as opposed to outdoor dining in semi-permanent structures with climate control.

**12-196-21**

**K. Miscellaneous Business and Communications**

- a. Communications**
- b. Administrative Approval Correspondence**
- c. Draft Agenda for next meeting**
- d. Other Business**

**12-197-21**

**L. Planning Division Action Items**

- a. Staff Report on Previous Requests**
- b. Additional Items from tonight's meeting**

**12-198-21**

**M. Adjournment**

No further business being evident, the Chair adjourned the meeting at 9:48 p.m.



Nick Dupuis  
Planning Director

Paul Reagan commended the Board members and Mr. Lambert for their work and comments thus far. He said that one way to stem demolitions would be to study why people are leaving the community and to do more to address those issues. He suggested that requiring the addition of drainage wells to new construction could act as a disincentive. He agreed with Mr. Lambert that the bulk and size allowances in Birmingham are often too generous. He recommended that the parks be considered as a system, and not just as individual parks. He said more needed to be done in planning for an aging population.

David Bloom said the City should explore ways to offset the costs of installing elevators into homes for seniors, which would eliminate the need to find ways to expand first floor additions. He said he wanted residents living near parks to continue to be engaged about potential changes to park amenities.

Mr. Bloom also made a number of comments regarding seams. Chair Clein addressed the comments, and noted that those issues had been discussed thoroughly during the Board's November 2021 and December 2021 meetings and were not part of the topic at hand.

Cindy Rose said zoning should be reviewed because new construction is negatively affecting character of the community.

After public comment concluded, Mr. Lambert said prioritizing partnerships with schools to increase access to parks for the community should be a more clear recommendation in the draft. He said that at the end of the review of the second draft, he and the Board should discuss how recommendations in the chapters should be prioritized.

In regards to whether speeds on residential streets could be lowered, Chair Clein asked Mr. Lambert to consult with ACM Ecker and the City Attorney.

## **2. Outdoor Dining (Comprehensive)**

PD Dupuis summarized the item.

Ms. Whipple-Boyce recommended that if the Planning Board were to consider year-round outdoor dining at any point moving forward, more enclosed and/or heated options be considered for the coldest times of year.

Mr. Williams said he was concerned that the Board did not have sufficient expertise to make appropriate recommendations without an outside consultant.

Mr. Jeffares and Chair Clein expressed more confidence that the Board would be able to make appropriate recommendations.

Mr. Williams suggested then that the Board could make recommendations and maybe also continue a longer-term study with a consultant in the future.

Ms. Whipple-Boyce was concerned that knowing a consultant might be enlisted in the future could result in establishments not wanting to invest in the initially recommended outdoor dining guidelines.

Chair Clein said his understanding was that the Commission did not want more enclosed or heated areas that would functionally expand indoor dining. He agreed with Ms. Whipple-Boyce that without those aspects people would be unlikely to dine outside in the coldest months, and so recommended that the Board not overly focus on making those months conducive to outdoor dining.

After further discussion, there was consensus that the regular outdoor dining season should run from April 1 to December 31, using broadly the same ordinances that are currently in place with some modifications to be recommended. From January 1 to March 31, establishments should be allowed to have outdoor dining with no additional permitting process with the understanding that no dining decks should be used, the furniture and outdoor amenities must still be reviewed and approved by the Board, and that the furniture and amenities must be taken in every night.

Mr. Share noted that these changes could be implemented while seeking feedback from business owners and the public regarding how the extension of the regular outdoor dining season was going and on ways to improve.

The Board did not believe that establishments with liquor licenses and establishments without liquor licenses should be handled differently in terms of outdoor dining.

Ms. Whipple-Boyce said the material requirements could remain the same as the current ones, as they have largely been working.

After brief discussion, Chair Clein recommended that the material and appearance standards for outdoor dining overall be updated to align with the material and appearance standards for bistros.

Ms. Whipple-Boyce noted that in Article 3, Section 3.04(C)(10)(h), the ordinance seems to require that decks only be allowed if there is not enough room for dining on the sidewalk.

Mr. Williams said that if the ordinance does say that, it should be modified to reflect current practice.

A number of Board members recommended that social districts be considered for future study and discussion.

In regards to whether outdoor dining in public space and outdoor dining in private space should be regulated differently, the consensus was that they should be treated largely the same.

Mr. Jeffares and Ms. Whipple-Boyce said they did not believe that establishments on private property should have to take in their furniture at night in the off-season.



Mr. Share qualified that suggestion, saying that private property owners should be permitted to leave their furniture out at night if it is in the rear of their buildings, but not if it is along the street.

The Board requested further clarification from the Fire Marshal regarding when fire suppression is required, especially if non-flammable materials are used.

In reply to Board comments, PD Dupuis noted:

- In cases where there are differences between the general ordinance and the overlay, the overlay prevails;
- There would likely be ways to clean up the ordinance to make the differences between the general requirements and the overlay more clear;
- There is a difference in the appearance of built-up platforms and flush platforms that should be considered;
- The City is working harder to make sure outdoor dining is appropriately contained in its allowed space, often via railings or barriers; and,
- It would be worth considering how larger outdoor spaces, like the one by the Mad Hatter, could be used by a few neighboring establishments at once.

There was Board consensus that outdoor dining should be allowed in front of neighboring businesses with permission of the neighboring owner, and not only if the neighboring space is vacant. The Board specific that this would have to be renewed every year. It was noted that capacity and restroom requirements would still have to be met. It was also noted that this would not apply to decks.

It was determined that further discussion still needed to occur regarding whether an individual establishment should be permitted both dining adjacent to the building and dining on a deck in the street.

**01-10-22**

## **K. Miscellaneous Business and Communications**

### **a. Communications**

### **b. Administrative Approval Correspondence**

In reply to Board feedback, PD Dupuis said he would require 191 N. Chester to appear before the Board for a design review if the owners choose to pursue a change in the location of their dumpster.

### **c. Draft Agenda for next meeting**

The Chair asked that sufficient details be provided for the Townsend discussion, including views of the full street, the relationships of the proposed changes to the nearby buildings, and precise dimensions.

### **d. Other Business**

**C. Chair’s Comments**

Chair Clein welcomed everyone to the meeting and reviewed the meeting’s procedures.

**02-27-22**

**D. Review Of The Agenda**

**02-28-22**

**E. Unfinished Business**

None.

**02-29-22**

**F. Rezoning Applications**

None.

**02-30-22**

**G. Community Impact Studies**

None.

**02-31-22**

**H. Special Land Use Permits**

None.

**02-32-22**

**I. Site Plan & Design Reviews**

None.

**02-33-22**

**J. Study Session**

**1. Outdoor Dining (Comprehensive)**

PD Dupuis presented the item.

Board member comments were as follows:

- Article 4, Section 4.44(B)(4) should address whether an outdoor dining patio could extend onto the private property of a neighboring property owner with written permission from the neighboring property owner;
- Article 4, Section 4.44(B)(5)(iii) should be amended to require that all aspects of outdoor dining should be brought in from January 1 to March 31 at night, including railings or

planters. Applicants should be expected to propose temporary outdoor dining delineations for those months rather than permanent ones drilled into the ground. It was noted that unobtrusive planters could possibly be pressed up against the exterior of the building at night instead of being brought in;

- Article 4, Section 4.44(C)(5) should require a five foot clear path with some way of providing the Planning Board and/or the Engineering Department leeway to require a greater width for a clear path if necessary;
- Article 4, Section 4.44(C)(8) should require barriers be a maximum of 42 inches in height with no exception for planting material;
- Article 4, Section 4.44(C)(9) should specify that 'Windbreaks must be constructed of a clear, rigid, and durable material,' adding 'rigid';
- Article 4, Section 4.44(C)(3) and Article 4, Section 4.44(C)(11) could likely be combined;
- These standards should be crosschecked for redundancy with the overlay standards and redundancy should be eliminated wherever possible;
- The enclosure definition should prohibit vertical elements above 60 inches except for exterior building walls, windbreaks, umbrellas, or landscaping; and,
- BO Johnson should be asked how the ordinance could best address the definition of 'permanent fixtures', whether by defining it, allowing the Building Official to judge at their discretion, or some other approach.

In regards to comments that Article 4, Section 4.44(C)(8) should be updated to reflect the changes to be made to Article 4, Section 4.44(B)(5)(iii) regarding immovable barriers between January 1 and March 31, PD Dupuis said he would likely add language stating that the Board could provide flexibility on the immovable barrier requirement between January 1 and March 31.

There was Board consensus that requiring barriers for establishments without alcohol was likely inappropriate.

PD Dupuis noted that the concern is not alcohol service but expansion of outdoor dining beyond its allowed parameters into the public clear path.

Chair Clein asked PD Dupuis to come back with recommendations regarding barriers for establishments that do not serve alcohol. He suggested that the ordinance could specify differential treatment based on the number or location of outdoor dining tables, such as more than one row of tables against a building.

Ms. Whipple-Boyce asked that the Commission be made aware via a memo included with the outdoor dining recommendations that members of the Board are interested in studying the topic of social districts. She noted that social districts would complement the Board's work on outdoor dining. She said she did not want the Board to miss the opportunity to review the topic.

#### Public Comment

Ann Steglich asked how the ordinances are enforced.

The Chair explained the City has code enforcement in place.

There was Board consensus to discuss the questions posed in the Study Session #8 summary at the next Board discussion of outdoor dining.

Mr. Williams asked for photographic examples of outdoor dining located on both a deck and the sidewalk.

## **2. 2040 Plan – Chapter 4 (Support Mixed-Use Districts) & Chapter 5 (Advance Sustainability Practices)**

Chair Clein and PD Dupuis introduced the item.

Mr. Lambert presented the item.

In reply to Mr. Williams, ACM Ecker noted that all boards and committees provided feedback on the first draft of the master plan.

Chair Clein asked Staff to solicit feedback from other boards and committees on the second draft of the master plan, especially regarding tasks the draft suggests the various boards and committees undertake in the future.

Individual Board member comments were as follows:

- Chapters Four and Five had areas that were too detailed for a master plan;
- Discouraging barriers for outdoor dining may not be appropriate;
- There may be too much flexibility recommended for the Rail District;
- It may be appropriate to include an appendix of potential ways to implement recommendations rather than including those examples in the body of the plan;
- Prioritizing intergovernmental cooperation should be emphasized as part of the sustainability recommendations;
- It might be more appropriate for the City to determine what sustainability goals it would like its developments to meet instead of using LEED certification as a metric since LEED is an imperfect measure of sustainability;
- The canopy recommendations would likely be helpful in mitigating the noise and speeding problems on Woodward but may not be enough to eliminate the issues;
- Enhancing the safety of crossing Woodward may need more attention in the plan;
- Mr. Lambert should stay apprised of the Board's decisions regarding 770 S. Adams because it will impact the plan's recommendations for Worth Plaza;
- The recommendations for Market North and the Rail District are both attractive and likely feasible;
- The sustainability board is a good idea and would likely get new and different residents involved with the City;
- The draft recommends EV charging in the parking decks but also notes that the parking decks cannot afford to lose spaces to dedicated EV charging, which is an inconsistency that should be addressed;
- The focus on increasing pedestrian activity in the downtown is appropriate, and social districts could be recommended as another way of increasing downtown pedestrian activity;

- Number Two merits inclusion in terms of its effects neighborhood cohesion.

### Public Comment

Samuel Oh, resident and member of the Corridor Improvement Authority, spoke on behalf of his neighborhood group in the Triangle. He expressed concerns about the speed and density of traffic, about the process of appointments for the Corridor Improvement Authority, and about potentially increasing density in the Triangle. He requested that a park or open space be considered for the Triangle.

Chair Clein clarified that:

- The Plan itself makes recommendations but does not rezone properties; and,
- The recommendations made for the Triangle in the Plan align with the Triangle Plan which was adopted by the City in 2007.

Mr. Oh reiterated his belief that the Plan rezoned properties in the Triangle to a higher density.

David Bloom said the Plan should provide more clarity on how a Master Plan influences zoning, noting that the process may confuse some residents. He advocated for clarity in the Plan as to whether there is insufficient parking in the City, recommended public engagement on the Plan's recommendations, raised concerns about having cafes in the parks, and said there should be clarity regarding whether a mezzanine is considered a 'floor' in describing building heights.

Jack Reinhardt, Managing Partner of the 555 Building, expressed concern about the S. Old Woodward project. He said he had not received notice of discussions of the S. Old Woodward project.

Chair Clein clarified that the present topic before the Board was the Master Plan.

Mr. Williams said Mr. Reinhardt's comments regarding the S. Old Woodward project would be more appropriately directed to the Commission.

Mr. Reinhardt then expressed concern about the loss of parking in the S. Old Woodward area.

## **2. Outdoor Dining Standards (previously Item J1)**

PD Dupuis introduced the item.

Mr. Share recommended in Article 4, Section 4.44(B), "or by the Planning Division at the discretion of the Planning Director" would be changed to "or by the Planning Division at the discretion of the Planning Board", and that "throughout the year with a valid Outdoor Dining License" be removed from Article 4, Section 4.44(B)(5).

Mr. Jeffares and Chair Clein said the 'written permission' referenced in Article 4, Section 4.44(B)(4) should require renewal yearly and should be submitted to the City as part of the Outdoor dining patio renewal process. Chair Clein recommended Staff determine where best to include that as part of the policy.

Mr. Jeffares said dining establishments should be permitted to store their planters against the building during January, February, and March. He noted that the City and establishments without outdoor dining leave their planters out year-round.

Chair Clein stated that the Board is trying to maintain the public space for pedestrians by requiring the removal of planters during January, February, and March. He contended that planters that would normally demarcate outdoor dining would unnecessarily clutter the sidewalk during those months.

Mr. Share concurred with Chair Clein.

Ms. Whipple-Boyce said there were likely some planters that could be allowed to be placed against the building during January, February, and March, and some planters where it would not be appropriate to allow that. She said she was not immediately sure of how to differentiate between the two types.

The Board then addressed the three discussion points posed in the Staff report under Study Session #9.

After discussion, the Board concurred that for Number One establishments should be permitted outdoor dining on both a sidewalk and a deck if requested as long as the clear path meets the five foot minimum and the deck does not encroach past the curb.

PD Dupuis noted that the majority of outdoor dining is regulated by SLUPs, meaning the City can make modifications if necessary.

For Number Two, there were a range of opinions about what sort of coverings should be permitted for outdoor dining adjacent to a building and for outdoor dining on a deck.

Mr. Koseck proposed that awnings or umbrellas be allowed along the buildings, and that only umbrellas be allowed on the decks. He noted that it would make the pedestrian clear path feel less closed in, and would also keep the streetscape view more open.

Messrs. Share and Williams and Chair Clein agreed with Mr. Koseck.

Mr. Jeffares and Ms. Whipple-Boyce spoke in favor of awnings being allowed in both conditions. Ms. Whipple-Boyce noted prior Departmental comments had raised the issue of umbrellas potentially being moved and encroaching into the road or pedestrian clear path.

Mr. Jeffares agreed that umbrellas' ability to be moved was possibly a drawback, and noted that awnings more effectively protect against inclement weather.

For Number Three, there was Board consensus that there would be no appropriate way to limit the number of decks per block.

Chair Clein said he would sooner discuss limiting the number of dining establishments in an area than he would limiting the number of outdoor dining decks permitted per block, though he clarified he was not particularly interested in doing either.

Mr. Williams agreed it would be better to limit the number of dining establishments in an area than it would be to limit the number of outdoor dining decks permitted per block.

Ms. Whipple-Boyce asked if using recycled materials for outdoor dining furniture could be discussed as part of the topic.

Chair Clein said he wanted to avoid delaying this topic so that restaurateurs know what to expect for outdoor dining, but said he would be open to discussing appropriate outdoor dining furniture materials as a future, separate topic.

**Motion by Mr. Williams**

**Seconded by Mr. Share to set a public hearing on April 13, 2022 to amend Article 4, Section 4.44 Outdoor Dining Standards, Article 3, Section 3.04 – Specific Standards (Downtown Overlay District), Article 3, Section 3.16 – Specific Standards (Via Activation Overlay District), and Article 9, Section 9.02 – Definitions.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Jeffares, Williams, Whipple-Boyce, Koseck, Ramin, Clein, Share

Nays: None

Public Comment

Richard Astrein, owner of Astrein's Jeweler, member of the Advisory Parking Committee, and member of the Birmingham Shopping District Board, expressed a concern that too many outdoor dining decks could negatively impact other retailers.

**03-58-22**

**K. Miscellaneous Business and Communications**

**Motion by Mr. Share**

**Seconded by Mr. Williams to have whatever needs to be amended be amended so that on March 31, 2022 the special meeting will include consideration of the application for 220 Merrill Street for outdoor dining.**

**Mr. Williams noted that this item would be reviewed in addition to 770 S. Adams on the same date.**

**Motion carried, 7-0.**

VOICE VOTE

Yeas: Jeffares, Williams, Whipple-Boyce, Koseck, Ramin, Clein, Share

**City Department/Board Feedback**





# MEMORANDUM

Building Department

**DATE:** August 4, 2021  
**TO:** Nicholas J. Dupuis  
**FROM:** Bruce R. Johnson, Building Official  
**SUBJECT:** Outdoor Dining Thoughts

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Dining platforms in the street:

- Must be constructed in accordance with the Michigan Building Code including accessibility (ADA) regulations.
- While not required by the building code, a 42-inch tall guardrail should be installed on the platform adjacent to vehicle drive lanes.

Enclosures/coverings:

- Must be constructed in accordance with the Michigan Building Code.
- Must not block or conceal any exits from the platform.

Sidewalk patios:

- Tend to creep into the required sidewalk width when they are not clearly defined by barriers such as rails/fencing. Especially when there is seating along both the building and the curb with the public walk between the two areas.

Heating elements:

- Must be UL listed for the proposed use and installed and utilized in accordance with manufactures recommendations

Full Enclosures/year-round dining:

- Would need to be constructed in accordance with the Michigan Building Code.
- A permanent power source will need to be installed for all electrical needs – lighting, emergency lighting, exit signs, etc.
- An approved heating system should be utilized rather than temporary portable heaters.

Weather protection:

Umbrellas, tent and awnings tend to define the dining areas and should not be allowed to encroach at any height into the clear path of sidewalk for public use.

General Comments:

- The Michigan Plumbing Code now requires that outdoor dining seats be included in the total number of occupants for the establishment when calculating the total number toilet room fixtures required.

- Barriers that define the approved limits of the outdoor dining areas work well in keeping the public portion of the sidewalk free and clear for pedestrians. A perfect example of this is Churchills.
- Designs should be such that servers do not have to utilize the pedestrian flow portion of the sidewalk while taking orders or serving patrons. We have received complaints about this.
- The current enforcement protocol is to inspect per the approved outdoor dining plan. Compliance for the number and type of tables and chairs, layout, barriers and planters, umbrellas, awnings, number of portable heaters, etc. are all checked. Anything not on the approved plan is a violation. Applicants should be encouraged to show on their plan all the items they intend to utilize during the various seasons.



Nicholas Dupuis <ndupuis@bhamgov.org>

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## DPS Issues with Outdoor Dining

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Carrie Laird <Claird@bhamgov.org>

Fri, Jul 23, 2021 at 1:24 PM

To: Nicholas Dupuis <ndupuis@bhamgov.org>

Cc: Lauren Wood <Lwood@bhamgov.org>, Brendan McGaughey <bmcgaughey@bhamgov.org>, Shon Jones <sjones@bhamgov.org>

Hi Nick,

Thank you for asking! We do have feedback on year-round dining platform decks and structures, as follows:

In the winter months especially, we have safety concerns. Snow plowing is challenging around these structures when they are located in the parking spots. Often, the street cannot be cleared properly in order to avoid hitting the platform deck, resulting in accumulating snow and ice that has to be salted more often than if we could eliminate it to begin with. In other words, we have to return to these locations with salt until the snow melts completely. Another safety concern is how narrow some of the roadways are in which the platforms are located. Visibility is decreased substantially in the snow, and it's frankly amazing that we haven't had an accident yet with a snow plow. In addition, if snow and/or ice must be removed from the platform, it's the business owner's responsibility to clear it, and it winds up back in the street or on the sidewalk, creating the same situation I explained above with several visits to the same area.

Further, we need access to the trees. Often the structure/platforms envelope the trees just by the nature of the sidewalk/building setting, and we are unable to perform preventative maintenance of our trees (routine pruning, elevating). Additionally, if a broken branch or dead tree becomes an issue or hazard, it is difficult or impossible to remove with the surrounding obstacles. We've also had an instance of illegal pruning by others of City trees in order to make a seating area on a deck more accommodating for their customers. Our holiday lights program is also affected by no access to the city trees, resulting sometimes in lack of decoration or inability to fix outages.

We haven't encountered any issues with access to the landscape boxes as of yet, however that could be a possibility in the future. We have had to relocate or eliminate hanging baskets due to the decks/structures because of inability to access by our watering trucks. This results sometimes in an off-pattern but we haven't had any complaints of "missing" baskets to my knowledge.

DPS would prefer a window from mid-December through March, but at minimum 3 month window in the winter months, i.e. Jan-March, to avoid most snow and ice issues and it would also allow for preventative care and maintenance of our trees downtown. We typically have all of the holiday lights downtown on by Thanksgiving, so this suggestion does not solve the decorating issues, nor the hanging baskets/landscape boxes concerns, but we are trying to be flexible because we understand the desire for the extended or year round season for outdoor dining.

Thanks again and if you have any further questions, please let me know!

[Quoted text hidden]

--

Carrie A. Laird  
Parks & Recreation Manager

851 S. Eton  
Birmingham, MI 48009  
248-530-1714

[Quoted text hidden]



Nicholas Dupuis <ndupuis@bhamgov.org>

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## Outdoor Dining Study

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**Jim Surhigh** <cityengineer@bhamgov.org>  
To: Nicholas Dupuis <ndupuis@bhamgov.org>  
Cc: Scott Zielinski <szielinski@bhamgov.org>

Tue, Aug 3, 2021 at 10:59 AM

Nick,

Following are potential issues related to outdoor dining that the Engineering Dept would normally review when one is proposed:

- do not block, interrupt or redirect surface drainage
- do not cover or obstruct the access to underground infrastructure elements, such as manholes, gate wells and catch basins
- do not obstruct fire hydrants
- understand if constructed over sewers or water mains, that provisions are in place to remove features if emergency repairs are needed
- review with respect to upcoming city construction projects in area and possibly prohibit or restrict period of time that outdoor dining would be allowed to accommodate City projects
- consider placement with respect to traffic lanes, and providing adequate offsets for safe passage of all vehicles that use street, including emergency and DPS vehicles, buses, and delivery trucks.
- consider placement with respect to available sight-distance for vehicles and pedestrians at street intersections and crosswalks
- consider placement with respect to public sidewalk space (5-ft minimum clear distance required)
- consider impact to street parking, possibly prohibit if utilizing high-demand spaces, or spaces allocated or leased to neighboring businesses.

Scott - if you have anything to add, please do so.

Thanks,  
Jim

[Quoted text hidden]



Nicholas Dupuis <ndupuis@bhamgov.org>

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## Outdoor Dining Study

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**Scott Zielinski** <szielinski@bhamgov.org>  
To: Jim Surhigh <cityengineer@bhamgov.org>  
Cc: Nicholas Dupuis <ndupuis@bhamgov.org>

Wed, Aug 4, 2021 at 8:37 AM

I would be tempted to prohibit enclosures near drive entrances, Alleys and intersections due to potential visual obstructions.

If they are using the space next to the curb at a parking location a minimum distance from the curb should be considered 12" minimum. TO prevent issues with parking and help limit issues with car doors.

On Tue, Aug 3, 2021 at 10:58 AM Jim Surhigh <cityengineer@bhamgov.org> wrote:

[Quoted text hidden]

--  
Scott D. Zielinski, PE  
Assistant City Engineer  
City of Birmingham  
Tel: 248-530-1838



# CITY OF BIRMINGHAM FIRE DEPARTMENT

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572 SOUTH ADAMS • BIRMINGHAM, MICHIGAN 48009 • 248.530.1900 FAX 248.530.1950

## Outdoor Dining Survey

**Dining platforms in the street:** These structures and the footprint shall be clear of the right of way for traffic and emergency vehicles. No open flame devices on combustible structures (Fire pits on wood, vinyl, composite platforms, etc.).

**Enclosures/Coverings:** Tents have a use period of 180 days in a 12 month period, IFC '15 sec. 3103.5.

**Year-round outdoor dining:**

**Sidewalk Patios:**

- Proper clearance from fire department connections FDC: 36 inches wide, 36 inches in depth and 78 inches in height.
- Proper clearance around fire hydrants, 3 feet in circumference and no obstructions from the street.
- Clear path of egress from buildings (do not setup dining in path of egress).

**Heating Elements:**

**Clearance:** Heating devices shall meet the proper clearance from combustible material at all times. Sec. 603.4.2.1.2 **Clearance to buildings** Portable outdoor gas-fired heating appliances shall be located not less than 5 feet from buildings.

**603.4.2.1.3 Clearance to combustible materials.** Portable outdoor gas-fired heating appliances shall not be located beneath, or closer than 5 feet to combustible decorations and combustible overhangs, awnings, sunshades or similar combustible attachments to buildings (regardless of a flame retardant rating certificate).

**603.4.2.1.4 Proximity to exits.** Portable outdoor gas-fired heating appliances shall not be located within 5 feet of exits or exit discharge.

**Carbon monoxide detection:** Shall be installed for enclosed or semi-enclosed structures regardless of heating device used.

**Fire extinguisher mounting:** Shall be installed in enclosed or semi-enclosed structures. AHJ to determine size, type and location(s) of devices.

**Storage of LP gas:** Storage of fuel cannot be inside of a building. LP gas must be stored in a cage. Cage must be a minimum of 10 feet from any type of building opening.



# CITY OF BIRMINGHAM FIRE DEPARTMENT

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572 SOUTH ADAMS • BIRMINGHAM, MICHIGAN 48009 • 248.530.1900 FAX 248.530.1950

Storage cannot be on the streetside of an establishment. Storage must be in a “cage” protected from vehicle strikes. This may mean that the cage may have to be protected by bollards. A permit would be required to install bollards.

**Only 20 lbs. or smaller tanks would be approved.**

Electric heaters in an enclosure or other assembly use would require clearance and carbon monoxide detection in an enclosed space and must meet proper clearance guidelines from combustible material at all times.

**Full enclosures:**

**Weather protection (umbrellas, tents, awnings):** Must provide a flame retardant certificate to the AHJ regardless of using outdoor heating or not. These items must meet the clearance of heating devices. Must meet clearance of portable heating devices.

**Structures attached to buildings:** Full fire suppression for structures attached to buildings with existing fire suppression is required on additions such as awnings, tents, sun rooms etc.

In some cases an assembly occupancy that currently does not have fire suppression required could be required to suppress the whole building with the addition of an attached outdoor structure depending on occupant load, layout and other aspects of design.

**Anything else:** My understanding is that rules were eased due to COVID dining rules. I would not want to continue the use of fuel supplied heating device clearances that were allowed during COVID. The clearance requirements were allowed to be less than what is required (5 feet) during COVID. Gas storage and use was a large part of target hazards and the issuance of citations during outdoor COVID dining. Some establishments would not be able to store fuel on their property due to location specifics.

Jack D. Pesha

Fire Marshal

Birmingham Fire Department

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**OD**

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**Scott Grewe** <Sgrewe@bhamgov.org>  
To: Nicholas Dupuis <ndupuis@bhamgov.org>

Fri, Jul 30, 2021 at 8:44 AM

Really we have had no issues with the decks at the PD level. They pay for the metered spaces to put their decks up so there is no loss of revenue but we do obviously lose the spaces which has not been an issue.

--

Scott Grewe  
Operations Commander  
Birmingham Police Department  
[151 Martin St.](#)  
[Birmingham, MI. 48009](#)  
(248)530-1867



\*Important Note to Residents\*

Let's connect! Join the Citywide Email System to receive important City updates and critical information specific to your neighborhood at [www.bhamgov.org/citywideemail](http://www.bhamgov.org/citywideemail).





# MEMORANDUM

Planning Division

**DATE:** September 1<sup>st</sup>, 2021

**TO:** Advisory Parking Committee

**FROM:** Nicholas Dupuis, City Planner

**APPROVED:** Scott Grewe, Operations Commander

**SUBJECT:** Outdoor Dining

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At the Advisory Parking Committee meeting on August 4<sup>th</sup>, 2021, the committee expressed interest in a larger, or more inclusive role in both the outdoor dining platform approval process, as well as the outdoor dining ordinance study currently being performed by the Planning Board. At this time, the Planning Division has provided a summary of current outdoor dining ordinances, as well as a summary of the new ordinance study below.

## Outdoor Dining Ordinance

In general, outdoor dining plays an integral role in creating an active and vibrant downtown. The City of Birmingham has enjoyed and benefited from high quality and carefully designed outdoor dining patios for many years. Currently, outdoor dining standards exist across several sections of the Zoning Ordinance:

- [Article 4, Section 4.44 – Outdoor Dining](#): This section outlines the outdoor dining requirements for all commercial areas in the City. This is the section that permits the outdoor dining platforms that gets reviewed by the APC as they come up.
- [Article 3, Section 3.04 \(C\)\(10\) – Bistros](#): This is the section that specifically regulated bistros. There is also mention of platforms being permitted here, and the language is the same as the section above.
- [Article 3, Section 3.14 – Activation Overlay District](#): This is one of the more unique places for outdoor dining regulations, but essentially all this does is enable outdoor dining in certain alleys in the City. Some examples of which are Dick O' Dows and the future Bloom Bistro, both of which have been approved for outdoor dining in the alley.

## Outdoor Dining Study

As mentioned above the Planning Board has been directed by the City Commission to do a major, comprehensive review of the outdoor dining standards present in the current zoning ordinance. The study will involve significant research into other communities, city departments, building codes, and the like. Attached are the two study session memos that have been completed thus far. The Planning Division plans to make your input available to the Planning Board on September 9<sup>th</sup>, 2021.



# MEMORANDUM

Planning Division

**DATE:** July 14<sup>th</sup>, 2021

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #1

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23<sup>rd</sup>, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restauranteurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;

- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restauranteurs do not have to continue to adapt to changing policies.

At this early stage, the Planning Division would like to begin with a high-level general review of outdoor dining beginning with research into what “good” outdoor dining may look like. By beginning with an example driven discussion, the Planning Division hopes to work towards several of the goals listed above and guide more pointed discussions in future study sessions.

Discussing personal experiences with outdoor dining across the world was a large part of the Planning Board and City Commission discussions prior to embarking on this study session. Considering this approach, the Planning Division reviewed [OpenTable's annual list 100 Best Al Fresco Restaurants in America for 2019](#). Naturally, California, Florida and Hawaii make up 67% of the list. However, the Midwest and Northeast (similar weather conditions to Birmingham) have strong representation on the list, making it an interesting place to start. Please see the following page for images of several outdoor dining spaces from restaurants present on the list.

Upon researching many of the outdoor dining patios on the list, the Planning Division made several observations:

1. Overhead coverings are common in the form of umbrellas, awnings, and pergola-type structures. Other covering methods such as canvas shade sails, retractable fabric shade canopies, and even trees/vegetation were observed as well.
2. Several rooftop patios made the list.
3. Heaters, lights, and fire tables/pits were very common.
4. Dining chairs appeared to be constructed of a myriad of materials, including plastic, wicker, and fabric.
5. Full enclosures (roof/covering plus walls or partial walls) were rare. Most cases of perceived enclosures included variables such as below-grade placement, placement next to building facades or screening from nuisances such as parking areas.
6. The majority of outdoor dining patios contained greenery and plantings.
7. Patio placement was observed in public and private property, and patio design elements were consistent between those that were on both.





**Cecconi's – Brooklyn, NY**



**Farmers Fishers Bakers – Washington D.C.**



**El Five – Denver, CO**



**The Mooring Restaurant – Newport, RI**



**Campfire – Carlsbad, CA**



**The Pink Door – Seattle, WA**



Similar observations were made while researching opinions of the “best” outdoor dining in Michigan. [Pure Michigan's Top Outdoor Patios for Dining in Michigan](#) and [M-Live's list of Michigan's Best Outdoor Dining](#) highlight several dining establishments that contain many of the same features.



On a more local level, Southeast Michigan contains several comparable cities with outdoor dining. The Planning Division was able to locate several cities that created specific regulations for outdoor dining within their Zoning Ordinances:

- [Berkley](#)
- [Royal Oak](#)
- [Plymouth](#)
- [Rochester Hills](#) (pg. 77)
- [Lake Orion](#) (pg. 60)

Other cities and Zoning Ordinances such as Northville, Detroit, Ferndale and Ann Arbor were also researched. However, the Zoning Ordinances of these cities either did not contain any specific ordinance language regarding outdoor dining, or proved too difficult to locate at this time. Of the above cities that yielded results, only one or two had detailed regulations regarding outdoor dining within their Zoning Ordinance. If requested, further research into the Zoning Ordinance regulations of other cities, local or national, will be provided for review. As a consequence, no

examples of different outdoor dining regulations for private versus public property, enclosures, maintenance, or other items from the list of goals above were discovered.



So how does the feedback from the City Commission, the Planning Board's current list of goals for the outdoor dining discussion, and the above high-level research relate to the current Outdoor Dining ordinance? At this time, there are outdoor dining standards spread across several areas of the Zoning Ordinance:

- [Article 4, Section 4.44 – Outdoor Dining Standards](#)
- [Article 3, Section 3.04 \(C\)\(10\) – Bistros](#)
- [Article 3, Section 3.14, 3.16 – Via Activation Overlay](#)
- [Article 9, Section 9.02 – Definitions \(Bistro, Outdoor Café\)](#)

This outdoor dining study affords an opportunity to ensure that ordinance language is consistent throughout, and addresses the issues of potentially regulating different restaurant and/or liquor license types (Bistro, Class C, Economic Development, Theaters & Hotels) separately, or affording them all the same outdoor dining standards, at least in terms of design. For example, rooftop dining is permitted for bistro license holders, but is not mentioned in the overall outdoor dining standards. Similarly, the bistro ordinance language prohibits enclosures facilitating year-round dining outdoors, but the Outdoor Dining Standards do not regulate enclosures.

Considering the information above, and before attempts are made at amending any zoning ordinance language, the Planning Division suggests a discussion based on the following questions and requests that the Planning Board provide some direction as to which items to move forward with for the next study session, including any that are not listed:

- Does the Planning Board want to see enclosures? If so, during what season(s)? Additionally, the City should define "enclosure" as a part of this study. This has also been advised by the City Attorney.
- Should restaurants be permitted to extend in front of neighboring properties on the sidewalk? In the street?
- Should a survey be created and sent to property owners to solicit feedback on several key discussion points before the Planning Board begins to draft ordinance amendments?
- Should the Planning Division do a broader ordinance search for other areas of the Midwest and/or Northeast? What should we be looking for?





# MEMORANDUM

Planning Division

**DATE:** August 11<sup>th</sup>, 2021

**TO:** Planning Board

**FROM:** Nicholas Dupuis, City Planner

**SUBJECT:** Outdoor Dining Ordinance – Study Session #2

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On December 7, 2020, the City Commission discussed amending the Zoning Ordinance to consider allowing the enclosure of outdoor dining areas during the winter months. The City Commission asked the Planning Board to consider this issue, and any regulations they may recommend should outdoor dining enclosures be permitted.

On June 21<sup>st</sup>, 2021, the City Commission and Planning Board met at a joint meeting to further discuss outdoor dining, and to get a clear direction as to what elements of outdoor dining should be addressed. In general, the City Commission and Planning Board discussed several topics spanning from enclosures to private vs. public space, but ultimately asked the Planning Board to take a comprehensive look at the entire outdoor dining ordinance.

On June 23<sup>rd</sup>, 2021, the Planning Board discussed outdoor dining in further detail based on the joint meeting two days prior. The Planning Board settled on a list of goals that they would like to focus on in the ordinance review process, which includes the following:

- Incentivize outdoor off-season dining;
- Review the placement of decks and enclosures;
- Ensure that additional outdoor off-season dining does not become an extension of the indoor space;
- Solicit feedback from restaurateurs of all types in the City;
- Seek possible ideas from local, national and international examples;
- Review the current ordinance for issues;
- Review tickets that were given out to temporary outdoor dining operations;
- Review photos of the variety of temporary outdoor dining structures that were used around the City;
- Explore options for maintaining permanent aspects of outdoor dining structures even if the parts of the structures come down in different seasons;
- Discuss potential differences in policy for outdoor dining on public versus private property;
- Solicit feedback from Public Services and the BSD;



- Review agreements from temporary outdoor dining to see if any of the temporary policies might be worth integrating;
- Consider aspects like sidewalk widths and snow clearing in writing the policy;
- Maintain the current seating allowances for differently-sized establishments and maintain the differences for establishments holding different kinds of licenses for alcoholic beverage service; and,
- Recommend a permanent solution so that restaurateurs do not have to continue to adapt to changing policies.

### **Study Session #1 Summary**

On July 14<sup>th</sup>, 2021, the Planning Board reviewed a high-level report on outdoor dining to guide future discussion. The topics included observations as to what constitutes “good” outdoor dining with national and local examples, as well as a local ordinance review for outdoor dining. The Planning Board discussed next steps and emphasized the need to (1) hear from different City Departments (code issues, retail neighbor conflicts, streetscape), (2) review available codes and ordinances from other areas of the country (enclosures, public vs. private, year-round), and (3) analyze information from national downtown associations or other related organizations (trends, social districts, success stories).

### **Study Session #2**

#### **Departmental Comments**

Initially, the Planning Board requested that staff solicit comments from the Department of Public Services (DPS) and Birmingham Shopping District (BSD) regarding outdoor dining and its different aspects from their point of view. From the Department of Public Services, any issues surrounding snow removal, streetscape maintenance, or other relevant issues observed from DPS were topics of interest. As for the BSD, the Planning Board wanted to determine if expanded outdoor dining had any impact on neighboring, non-restaurant retail uses...positive or negative. During the discussion at the first study session, the Planning Board requested to include the Building Division, Fire Department, Police Department and Engineering Division for comments pertaining to their professions and expertise. Full comments from each department are attached.

- **Department of Public Services**

In general, the Department of Public Services has some issues with snow removal and streetscape maintenance. They noted that although the plows have managed to get by without major incident thus far, snow and ice accumulates in the hard-to-reach areas, which necessitates more salt and more maintenance to mitigate the hazard. In addition, although private businesses are responsible for clearing their own platforms or dining areas, the snow is often placed right back into the street or sidewalk, which creates more of the same conditions noted above. As far as streetscape maintenance, DPS notes that tree pruning/trimming becomes challenging while working around platforms and patios, and these dining areas often get in the way of other streetscape programs such as hanging baskets, tree lighting, and possibly even landscaping beds in the future.

- **Birmingham Shopping District**

The Birmingham Shopping District will make this a discussion item at their Board meeting in September. Comments will be provided to the Planning Board thereafter.

- **Engineering Division**

The Engineering Division provided important comments relating to stormwater, infrastructure elements such as fire hydrants, manhole covers, drains, and catch basins, and patio placement. For dining platforms specifically, Engineering requires a channel between the curb and the deck structure for the passage of stormwater during rain events. Large rain events like those we have experienced recently (and will continue to experience) may exacerbate any issues with drainage and the placement of storm sewers and other infrastructure. Furthermore, they indicate that these patios should have provisions in place for emergency events such as water/sewer main repairs. As far as patio placement, Engineering noted that a 5 ft. clear path should be maintained, but also explained that traffic lanes should not be impeded for larger vehicles such as emergency vehicles and busses, and that sign lines may be impacted by dining patios.

- **Building Division**

As far as Building Division comments go, they note that much of the outdoor dining elements, from patios to enclosures/coverings, must be built to the standards of the Michigan Building Code. In addition, the Building Division outlined some issues with encroachment into the pedestrian path of umbrellas, tents, awnings etc. as well as important points about the Michigan Plumbing Code and employee use of the pedestrian clear path.

- **Police Department**

The Police Department has indicated that they do not have many issues with outdoor dining, nor concerns about any changes at this time. There has been no loss of revenue from the parking meters for outdoor dining platforms, as the owners of the platforms pay a fee to cover the costs. Additionally, they have not considered the loss of parking spaces as an issue at this time.

- **Fire Department**

The Fire Department comments revolved heavily around heating elements, structures/coverings, and access for emergencies. When it came to portable outdoor heating elements, there are a laundry list of requirements that must be followed to meet the Fire Codes. These regulations include the size and storage of fuel tanks, clearance, and safety devices such as fire extinguishers and carbon monoxide detectors. In terms of structures/coverings, the Fire Department requires flame retardant certificates regardless of the presence of heating elements. For those structures attached to buildings, the Fire Department may require the facility to contain fire suppression.

## **National Ordinance Review**

The Planning Board expressed interest in finding out what other areas of the country may have ordinance wise. These areas include the Midwest and east coast, but also other areas with weather conditions that may necessitate unique outdoor dining solutions such as Colorado, Seattle, and warm weather cities. Several cities and the relevant facets of their Zoning Ordinances are provided below. In general it appears that most all cities require review of outdoor dining

proposals on both private and public space. Full enclosures of outdoor dining do not appear to be permitted on public space in any city reviewed.

- [Elmwood Park, IL](#) (Chicago Area)
  - Parking requirements for outdoor dining which requires the greater of one parking space for every two seats or 3.5 parking spaces per 100 square feet of indoor and outdoor dining area.
- [Highland Park, IL](#) (Chicago Area)
  - Table and chair limits determined by City Manager.
  - Temporary barrier required to keep tables and chairs from migrating into the requires 5 ft. clear path.
  - Tables and chairs removed every night.
- [Oak Brook, IL](#) (Chicago Area)
  - No live entertainment.
  - 5 ft. pedestrian path.
- [Columbus, OH](#)
  - "Outdoor patio" means an outdoor area, open to the air at all times, that is either: enclosed by a roof or other overhead covering and not more than two walls or other side coverings; or has no roof or other overhead covering at all regardless of the number of walls or other side coverings.
  - Parking is required for dining patios at a rate of 50% of ratio required for primary structure.
- [Edina, MN](#) (Minneapolis Area)
  - The patio shall not be enclosed in such a manner that the space becomes an indoor area.
  - Patio screening may be required if the premises is adjacent to a residential district.
- [Fishers, IN](#) (Indianapolis Area)
  - Outdoor dining areas shall be adjacent to their tenant space.
- [Columbia, MO](#) (St. Louis Area)
  - Outdoor patio plan with requirements to include any existing light poles, sidewalk grates, parking meters, or other facilities located in the right-of-way.
  - Any tables, chairs, posts, cordons or other furniture be portable and not fastened or affixed to or over the public sidewalk unless the owner has obtained right-of-use approval from the city council.
- [Arvada, CO](#) (Denver Area)
  - Outdoor dining areas shall not be located within 100 feet of a residential zoning district.
  - Outdoor dining areas are allowed and shall be set back as required for the principal building. Outdoor dining on public property permitted within specific district.

- [Golden, CO](#) (Denver Area)
  - Portable seating, movable chairs, tables for cafes and other furniture should be of substantial materials; preferably metal or wood rather than plastic.
  - Permanent outdoor seating is recommended in and along all publicly-accessible pathways and spaces.

### **Local Strategies**

Staff reviewed Ordinance requirements for local cities including Royal Oak, Rochester, Ferndale, Berkley, Northville, and Plymouth for the way outdoor dining was handled prior to the Covid-19 pandemic. The Planning Division was also able to speak with staff or an elected official from each of the localities. All cities mentioned above require board review and approval for restaurants proposing outdoor dining on private and/or public space. The only City that allows restaurants to rent an on-street parking space for outdoor dining is Northville. Full enclosures for outdoor dining on public property are not allowed in any of the cities mentioned. Rochester and Ferndale said they would allow a restaurant to have an enclosure such as a tent, igloo, or greenhouse on private property. Examples of private outdoor enclosures in Ferndale include igloos at Detroit Fleet and a tent on Rosie O'Grady's patio. Enclosure material on private space is not tightly regulated. The Planning Director of Berkley indicated full enclosures were not permitted on private property. In regards to placement, the outdoor dining on public property for all cities mentioned is required to stay within the frontage lines of the business, it may not extend in front of neighboring properties.

As in Birmingham, a number of Ordinance regulations mentioned above for outdoor dining were relaxed in a temporary resolution during the Covid-19 pandemic. All of the cities experimented with outdoor dining for on-street parking spaces and some allowed enclosures for outdoor dining on public sidewalks and/or streets. A number of the resolutions were extended into winter time 2021-2022 for the sampled cities and will be reviewed for what to extend, what to get rid of, and what to keep indefinitely.

### **Downtown/Restaurant Organizations**

The Planning Division looked to various national and local associations or organizations that could potentially provide some information on trends and happenings within national or local communities that may help guide discussions regarding outdoor dining in Birmingham. It is worth noting that in recent news, blogs or publications from these groups, it was difficult to separate outdoor dining and the COVID-19 pandemic. However, the Planning Board did indicate that they wish to discuss the temporary COVID-19 outdoor dining expansions that were built in Birmingham. Additionally, Engage Birmingham survey results (attached) appeared to indicate that many residents and business owners in Birmingham were supportive of the various expansions and/or enclosures that were erected in the City.

- [Michigan Downtown Association](#)  
The Michigan Downtown Association has also provided some opinions on outdoor dining as an attraction for a downtown. In a 2021 article about [creative ways to bring residents downtown this summer and boost economic growth](#), it was noted that the Michigan Economic Development Corporation has supported outdoor dining expansion efforts across the state through Match on Main funding. Restaurants have seen the value of a quality outdoor dining space and have been investing in such to use into the future, and potentially year-round.

- **[Main Street America](#)**

Main Street America is an organization “committed to strengthening communities through preservation-based economic development in older and historic downtowns and neighborhood commercial districts.” Digging into their website, the Planning Division found an interesting article based on a 2021 Main Street Forward Award Winner in the Argenta District in North Little Rock, Arkansas. The award was given based on the efforts to create the Argenta Outdoor Dining District, a designated outdoor seating area that has helped local restaurants stay in business despite the pandemic. Although created for the pandemic, the district has plans underway to reopen in the spring. “Given its success, city leaders want to keep the district going even after the pandemic recedes, and Argenta’s restaurants are inspired to continue regular meetings to ensure the neighborhood’s future as a culinary destination.”

- **[National Restaurant Association](#)**

In general, the National Restaurant Association is an important resource in understanding trends and data regarding the restaurant industry. In reading through two documents, “2021 Restaurant Trends” and “Restaurant Industry 2030” (both attached), it was apparent that this particular group do not appear to be overly concerned about outdoor dining. Interestingly enough, this group found that restaurants would need to dedicate more space and capitol to *off-premise consumption* (i.e. takeout) as opposed to on premise indoor or outdoor dining. Additionally, when it comes to weather volatility, the group is finding that the concern lies in supply chains and food costs as opposed to protecting diners with coverings or enclosures.

- **[Independent Restaurant Coalition](#)**

The Independent Restaurant Coalition was created to “provide a strong, unified voice on legislative, regulatory, and policy issues that affect the restaurant industry; and provide advocacy, advice, networking and information to members.” In obtaining data from this group (attached), it is clear that the restaurant industry is an important industry that has unique struggles when it comes to situations like the pandemic. Restaurants and bars have large economic impacts in business and job creation, which could benefit from new outdoor dining regulations that could possibly expand outdoor dining, or add more comfort to outdoor dining patios.



# CITY OF BIRMINGHAM FIRE DEPARTMENT

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572 SOUTH ADAMS • BIRMINGHAM, MICHIGAN 48009 • 248.530.1900 FAX 248.530.1950

## Fire Department Outdoor Dining Requirements

### Dining platforms in the street

- These structures and the footprint shall be clear of the right of way for traffic and emergency vehicles.
- Proper clearance from fire department connections FDC: 36 inches wide, 36 inches in depth and 78 inches in height.
- Proper clearance around fire hydrants, 3 feet in circumference and no obstructions from the street.
- Clear path of egress from buildings (do not setup dining in path of egress).

### Enclosures/coverings

- Temporary tents, air-supported, air-inflated or tensioned membrane structures shall not be erected for a period of more than 180 days within a 12-month period on a single premises. **sec. 3103.5., International Fire Code 2015 ed.**

### Heating elements

- Heating devices shall meet the proper clearance from combustible material at all times. **Sec. 603.4.2.1.2 Clearance to buildings, International Fire Code 2015 ed.**
- Portable outdoor gas-fired heating appliances shall be located not less than **5 feet** from buildings. **International Fire Code 2015 ed.**
- Portable outdoor gas-fired heating appliances shall not be located beneath, or closer than **5 feet** to combustible decorations and combustible overhangs, awnings, sunshades or similar combustible attachments to buildings or structures (regardless of a flame retardant rating certificate). Electric heating devices are allowed following manufacturers specifications. **603.4.2.1.3 Clearance to combustible materials International Fire Code 2015 ed.**
- Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within **15 feet** of a structure or combustible material. (ie. fire pits, fire tables on wood, vinyl, composite platforms). **307.4.3 Portable Outdoor fireplaces International Fire Code 2015 ed.**
- Portable outdoor gas -fired heating appliances shall not be located within **5 feet** of exits or exit discharge. **603.4.2.1.4 Proximity to exits. International Fire Code 2015 edition.**
- **Weather protection (umbrellas, tents, awnings):** Must provide a flame retardant certificate to the AHJ regardless of using outdoor heating or not. These items must meet the clearance of heating devices and provide fire extinguisher protection.



# CITY OF BIRMINGHAM FIRE DEPARTMENT

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## Carbon monoxide detection

- Shall be installed for enclosed or semi-enclosed structures regardless of heating device used. Enclosures near vehicle traffic shall have carbon monoxide detectors in the event that vehicle emissions enter the enclosure accidentally.

## Fire extinguisher mounting

- Shall be installed in enclosed or semi-enclosed structures. Authority Having Jurisdiction (AHJ) to determine size, type and location(s) of devices. **Sec. 906.2, International Fire Code 2015 ed.**

## Storage of LP gas

- Storage of fuel cannot be inside of a building. LP gas must be stored in a cage outdoors. Storage cage must be a **minimum of 10 feet** from any type of building opening. Storage locations shall be approved by the Planning Department and the Fire Marshal. **6104.3 Container location, International Fire Code 2015 ed.**
- Only 20-pound propane or smaller tanks would be approved.

## Structures attached to buildings:

- Full fire suppression for structures attached to buildings with **existing** fire suppression is required on additions such as awnings, retractable awnings, tents, sun rooms, projections etc. that are more than 4 feet wide and of combustible material. If a structure is free standing and is a minimum of 3 feet away from a building, it would not require suppression. **8.15.7.1 National Fire Protection Agency 13, Standard for the Installation of Sprinkler Systems 2013 ed.**
- **A-2** assembly occupancy that currently **does not** have fire suppression required could be required to suppress the whole building with the addition of an attached outdoor structure depending on occupant load and square footage increases (ie. A building with the new outdoor addition is now over 5,000sq. ft. or over 100 occupants), layout and other aspects of design. **Sec. 903.2.1.2, Michigan Building Code 2015 ed.**



# CITY OF BIRMINGHAM FIRE DEPARTMENT

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## Fire Department Outdoor Dining Requirements

### Dining platforms in the street

- These structures and the footprint shall be clear of the right of way for traffic and emergency vehicles.
- Proper clearance from fire department connections FDC: 36 inches wide, 36 inches in depth and 78 inches in height.
- Proper clearance around fire hydrants, 3 feet in circumference and no obstructions from the street.
- Clear path of egress from buildings (do not setup dining in path of egress).

### Enclosures/coverings

- Temporary tents, air-supported, air-inflated or tensioned membrane structures shall not be erected for a period of more than 180 days within a 12-month period on a single premise. **Use period Sec. 3103.5., International Fire Code 2015 ed.**
- Flame retardant certificates shall be provided to the AHJ for structures using membrane and other combustible materials **Sec. 3104.2 Flame propagation performance treatment, International Fire Code 2015 edition.**
- Tents or membrane structures and their appurtenances shall be adequately roped, braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire code official on request. **Sec. 3103.9 Anchorage required International Fire Code 2015 ed.**
- A field inspection shall be performed by the Assistant Building Official and Fire Marshal for all erected structures prior to final approval.

### Heating elements

- Portable outdoor gas-fired heating appliances shall be located not less than **5 feet** from buildings. **Sec. 603.4.2.1.2 Clearance to buildings, International Fire Code 2015 ed.**
- Heating devices shall meet the proper clearance from combustible material at all times (5 feet). **Sec. 603.4.2.1.3 Clearance to combustible materials, International Fire Code 2015 ed.** Gas fired heating devices may be approved to be placed closer than 5 feet if specific manufacturer recommendations and specifications are followed. Documentation shall be submitted for review, and a field inspection performed by the Fire Marshal to determine safety is met prior to approval.
- Portable outdoor gas -fired heating appliances shall not be located within **5 feet** of exits or exit discharge. **603.4.2.1.4 Proximity to exits. International Fire Code 2015 edition.**





# CITY OF BIRMINGHAM FIRE DEPARTMENT

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- Electric heating devices are allowed following manufacturers specifications and meeting proper clearances. Manufactures specifications shall be provided to the fire code official upon request for review and approval. **Sec. 603.4.2.1.3 Clearance to combustible materials International Fire Code 2015 ed.**
- Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within **15 feet** of a structure or combustible material. (ex. fire pits, fire tables on wood, vinyl, composite platforms). **Sec. 307.4.3 Portable Outdoor fireplaces. International Fire Code 2015 edition.**
- Portable open-flame devices fueled by flammable or combustible gases or liquids shall be enclosed or installed in such a manner as to prevent the flame from contacting combustible material. **Sec. 308.1.6.2 Portable fueled open-flame devices. International Fire Code 2015 edition.** Approved outdoor fireplaces shall be fully screened to cover exposed flames. Final approval by the Fire Marshal is required.
- Solid fuels (wood, coal, etc.) shall not be allowed for use of outdoor fire features such as fire tables, fire pits or other heating and decorative devices.
- **Weather protection (umbrellas, tents, awnings):** Must provide a flame retardant certificate to the AHJ regardless of using outdoor heating or not. These items must meet the clearance of heating devices and provide fire extinguisher protection.

## Smoke Detectors / Carbon monoxide detection

- Smoke alarms and carbon monoxide (CO) detectors shall be installed for enclosed or semi-enclosed (3 or more sides enclosed) structures regardless of heating device used or not. Enclosures near vehicle traffic shall have carbon monoxide detectors in the event that vehicle emissions enter the enclosure accidentally.

## Fire extinguisher

- Shall be installed in enclosed or semi-enclosed structures as well as structures made of combustible materials. Authority Having Jurisdiction (AHJ) to determine size, type and location(s) of devices. **Sec. 906.2, International Fire Code 2015 ed.**
- Fire extinguishers shall be mounted to a stationary object.
- Fire extinguishers shall be provided with a service tag showing annual maintenance performed within the last twelve months.



# CITY OF BIRMINGHAM FIRE DEPARTMENT

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## Storage of LP gas

- Storage of fuel cannot be inside of a building. LP gas must be stored in a lockable cage outdoors. Storage cage must be a **minimum of 10 feet** from any type of building opening. Storage locations shall be approved by the Planning Department and the Fire Marshal. **6104.3 Container location, International Fire Code 2015 ed.**
- No loose or free-standing tanks are permitted at any time. All tanks shall be installed inside of heating devices, or secured in LP cages that are strategically placed to prevent an accidental vehicle strike.
- Only 20-pound or smaller LP tanks will be approved.

## Structures attached to buildings

- Full fire suppression for structures attached to buildings with **existing** fire suppression is required on additions such as awnings, retractable awnings, tents, sun rooms, projections etc. that are more than 4 feet wide and of combustible material. If a structure is free standing and is a minimum of 3 feet away from a building, it would not require suppression. **8.15.7.1 National Fire Protection Agency 13, Standard for the Installation of Sprinkler Systems 2013 ed.**
- **A-2** assembly occupancy that currently **does not** have fire suppression required could be required to suppress the whole building with the addition of an attached outdoor structure depending on occupant load and square footage increases (ie. A building with the new outdoor addition is now over 5,000sq. ft. or over 100 occupants), layout and other aspects of design. **Sec. 903.2.1.2, Michigan Building Code 2015 ed.**
- Sunshades, awnings or other added structures that are attached to buildings and are 3 feet or more away from the building do not require fire suppression. Example: a sunshade is installed with tension cables anchored to the building and ground but situated so that the shade material itself meets the clearance requirement of 3 or more feet away from the building.



Birmingham Shopping District  
Meeting Date: 11/04/2021  
151 Martin Street  
Birmingham, MI 48009  
248-530-1200  
ALLINBirmingham.com

## MEMORANDUM

**DATE:** November 2, 2021  
**TO:** Birmingham Shopping District Board  
**FROM:** Sean Kammer, Executive Director  
**SUBJECT:** Outdoor Dining Recommendations

---

The proposed recommendations below have been developed for the BSD's consideration to advise the Planning Board regarding its study of outdoor dining. Should the board concur with these recommendations, a resolution has been prepared for its consideration.

### SUGGESTED ACTION:

The Birmingham Shopping District approves the following recommendations to the Planning Board concerning outdoor dining.

### RECOMMENDATIONS

***The Planning Board may wish to consider recommending that any form of extended and/or expanded dining permission be available only to bistros and any other establishment holding a liquor license. Further, outdoor dining establishments should at least be open until 9:00 p.m.***

The BSD recommends that the spirit of the Bistro program be considered when evaluating the extent of outdoor dining permissions in the downtown. The Bistro Program was intended to help spur activity in the downtown by encouraging foot traffic, dining outside, which is visible and publicly displays activity, as well as encourages commercial activity to be visible through the windows of bistros (dining, socializing, etc). It is understood that the Planning Board has been asked by Planning Department staff to consider the viability of social districts as a means to incentivize businesses to stay open later to meet this criteria.

***The Planning Board should consider formulating recommendations regarding the size of outdoor dining space and the number of furniture permitted in zoning districts other than B1.***

The BSD suggests that a formula be developed to address the number of outdoor seats that are permitted for bistros in zoning districts B2, B2B, and B4. Under the relaxed restrictions during the pandemic, there were no guidelines for the number of outdoor seating furniture and bistros were able to breach their previous 65 seat threshold, some by an extreme number. The B1 district has guidance on the size of outdoor dining areas based on the linear frontage of the business. The B1 district is a neighborhood business district, applying to only three small parcels in the city, all outside of the shopping district. The city's zoning ordinance lays out the dimensions and seating criteria for outdoor dining in the B1 district. The ordinance does not mention the seating ratios to building frontage for the other districts (B2, B2B, B4, etc). It may be that no standard ratios for such districts exist. If this is the case, the BSD strongly recommends that the Planning Board consider formulating criteria for the size of outdoor dining areas based on ratios of building frontage, as exists in the B1 District.

***The Planning Board should consider recommending stronger regulations regarding businesses that attempt to have both sidewalk cafes and on-street dining platforms in order to ensure public walkways are not obstructed, and that on-street parking remains available.***

The Planning Board may wish to consider formulating additional guidance regarding the co-location of on-street platforms and sidewalk dining. In some specific cases, the lack of cohesion has resulted in a cluttered view of an otherwise clean and well planned streetscape with instances of garbage accumulation in the public right-of-way, obstructed public walkways, congestion, and obstructed views of shops and services. The BSD consulted the guidance provided by the city's 2016 Plan concerning outdoor dining platforms and sidewalk cafes. The BSD recommends that this plan be considered when developing future outdoor dining policies.

The Planning Board may also wish to consider limiting the number of parking spaces occupied by on-street dining platforms on any given block. This could be established as a formula per block or even by referencing the parking utilization rates that have been observed in recent studies.

Further, if the maximum permitted number of seats can feasibly be accommodated on the sidewalk in front of a business, then the option of an on-street outdoor dining platform should not be considered. A business with outdoor dining would have a sidewalk café, or an on-street platform if they can accommodate more seats, but ideally not both.

***The Planning Board should consider downtown maintenance activities performed by the BSD/DPS when considering additional features and accoutrements related to outdoor dining, and encourages the Planning Board to recommend supporting the current ordinance restricting outdoor dining to the months of April through November.***

The BSD, along with DPS, funds and performs regular maintenance activities in the downtown, ranging from snow removal, to power washing the sidewalks in the summer. Too many items in the public right of way at certain times of the year can inhibit the performance of necessary upkeep of the downtown. This also potentially generates significantly more costs for the BSD and DPS in order to achieve the same maintenance outcomes while experiencing challenges and obstacles. Consequently, the BSD recommends that the Planning Board support the current ordinance which regulates the outdoor dining season (April through November).

***Obstructed views can create problems. The Planning Board should consider the effects of wind screening, temporary outdoor dining structures, and other outdoor dining items on traffic visibility, the appearance of the streetscape, terminating vistas, and views to retail display windows.***

The BSD has observed complaints from non-restaurants regarding the effect of obstructed store fronts on their business. The Planning Board may wish to consider rules for outdoor dining that mitigates these potential externalities.

**MOTION: Motion by Astrein, seconded by Pohlod to approve the stated recommendations to the Planning Board concerning outdoor dining.**

**VOTE: Yeas: 8; Nays: 0; Absent: 4.**

## **APPENDIX – A**

### **BACKGROUND**

Relaxed outdoor dining restrictions and the extension of outdoor dining into the colder months were intended as business relief and recovery measures during a nation-wide state of emergency. Outdoor dining restrictions were relaxed during the covid-19 pandemic in order to relieve businesses of the stress of reduced sales resulting from capacity restrictions, which were implemented to protect the public health.

Since that time, outdoor dining has proliferated, not just in Birmingham but in many other communities as well. The current demand for outdoor dining continues to remain very high. A recent survey about outdoor dining on the Engage Birmingham website revealed that it remains popular among the respondents.

The Planning Board has undertaken a study on outdoor dining in order to ascertain the need for any permanent changes to local regulations. The BSD and other city departments have been asked to provide input. The purpose of the Planning Board's study is to determine the future of outdoor dining innovations as potentially permanent features of the dining experience in downtown Birmingham.

In recent meetings, the Planning Board has discussed a range of topics, such as whether retractable awnings could be permitted to enhance outdoor dining in the downtown and whether windscreens should be permitted for dining in colder months.

As far as the BSD is concerned, outdoor dining must be measured in terms of its effect on the downtown overall. This includes impacts on operations, marketability, safety, attractiveness, business development, and promotion potential of the downtown. Additionally, it should be noted that the BSD represents a diverse constituency, ranging from retailers and restaurants, to salons, and office firms who have differences of opinion on outdoor dining. Some retailers have expressed frustration at unreasonably large outdoor dining structures that obstructed their storefronts. Some pedestrians found difficulty safely navigating the public sidewalks in areas where sidewalk cafes and dining platforms were co-located. Consequently, the position of the BSD must take these various perspectives into account, while also prioritizing what it considers to be the best policies to protect the community's economy, reputation, operation, safety, and overall appearance.

BSD staff undertook a comprehensive effort to equitably gather the perspectives of downtown stakeholders for the BSD's review. On August 31, BSD staff sent out a general announcement to businesses and property owners soliciting opinions and feedback on outdoor dining policies, allowing stakeholders more than ten days to respond with their perspectives and concerns.

The BSD's committees considered the physical expansion of outdoor dining footprints, relaxed restrictions, and seasonal extension of the outdoor dining season into the winter months. The committees considered this issue from a downtown marketing, infrastructure, events, and economic development perspective. The Business Development committee identified two features of the outdoor dining question, the first being the question of physical expansion of dining into the public right-of-way, and the second being the seasonal extension of outdoor dining into the winter months.

It should be noted that at the October 25<sup>th</sup>, 2021 City Commission meeting, the Commission directed staff to develop zoning amendments regarding the November 15 end of the regular outdoor dining season for businesses that currently have city-approved outdoor dining.

The BSD's Business Development committee suggested that the BSD consider consulting the City's 2016 Plan, which contained recommendations for outdoor dining in respect to sidewalk width. According to the plan, sidewalks should not be completely obstructed with outdoor dining tables, chairs and other accoutrements to the point where it might interfere with pedestrian access.

Further commentary included that outdoor dining was originally intended for businesses with bistro licenses and other establishments with liquor licenses. The committee also provided commentary addressing the expansion of winterized enclosures defeating the purpose of 'outdoor' dining, and may end up becoming cost prohibitive when considering the costs of requirements such as enclosures, propane for heaters, fire suppression, and other equipment. During the covid-19 pandemic, some of these costs were mitigated by public subsidies, which may not always be the case moving forward.

The Advertising and Marketing Committee considered the issue of outdoor dining in light of regional competition and the downtown's brand identity. The Capital Improvements and Maintenance Committee chair identified several concerns related to the ongoing maintenance and cleanliness of the downtown, and the Special Events Committee provided feedback concerning outdoor dining's effect on the BSD's annual events. Attached for the BSD's review

are the written feedback received from downtown stakeholders and committee members concerning the issue of expanded outdoor dining.

The BSD received minimal feedback from business owners. General comments included support for outdoor dining, but with practical limitations. One owner revealed that the costs of heating outdoor dining structures in cold weather was prohibitively expensive. Further, business owners reported that sudden and rapid shifts and reversals in public policies concerning outdoor dining created logistics and cost challenges.

Additionally, board members discussed the committee recommendations and feedback at the October 7<sup>th</sup> BSD board meeting. It was agreed that a developed set of recommendations would be presented to the BSD board at the November 4, 2021 board meeting.

### **CONSENSUS OF THOUGHTS**

The feedback from committee members varied widely from advocating an extension of relaxed outdoor dining practices to support for a return to precovid guidelines. Some committees were unable to arrive at a consensus, however some general themes can be identified by the comments. The proposed recommendations for the BSD's consideration are based on what feedback was provided. Generally, outdoor dining is a positive activity in the downtown. The restaurants in the shopping district are more competitive in light of regional competition and popular trends.

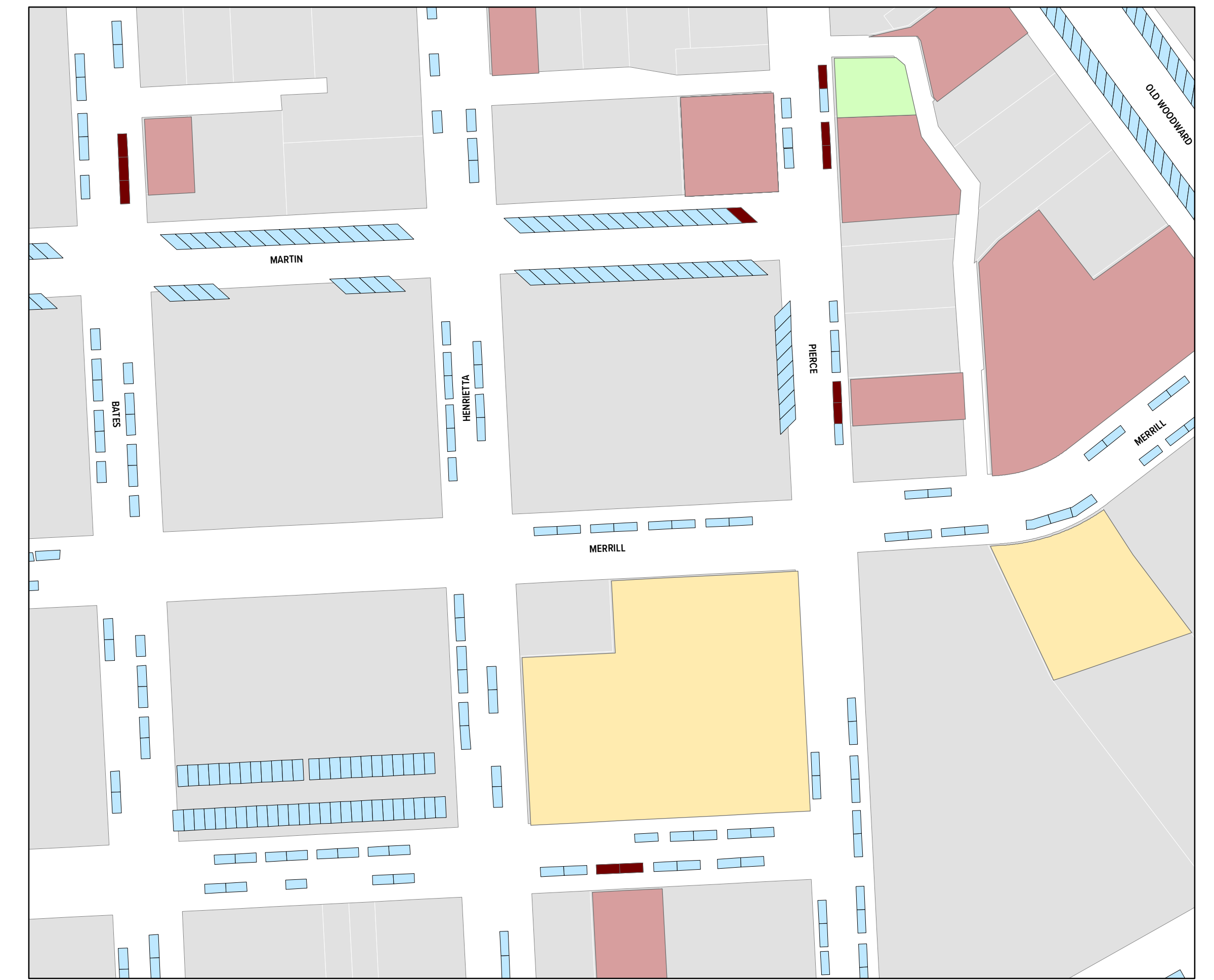
Respectfully submitted,

A handwritten signature in black ink, appearing to read "SKammer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sean Kammer, Executive Director



## **Misc. Attachments/Research**



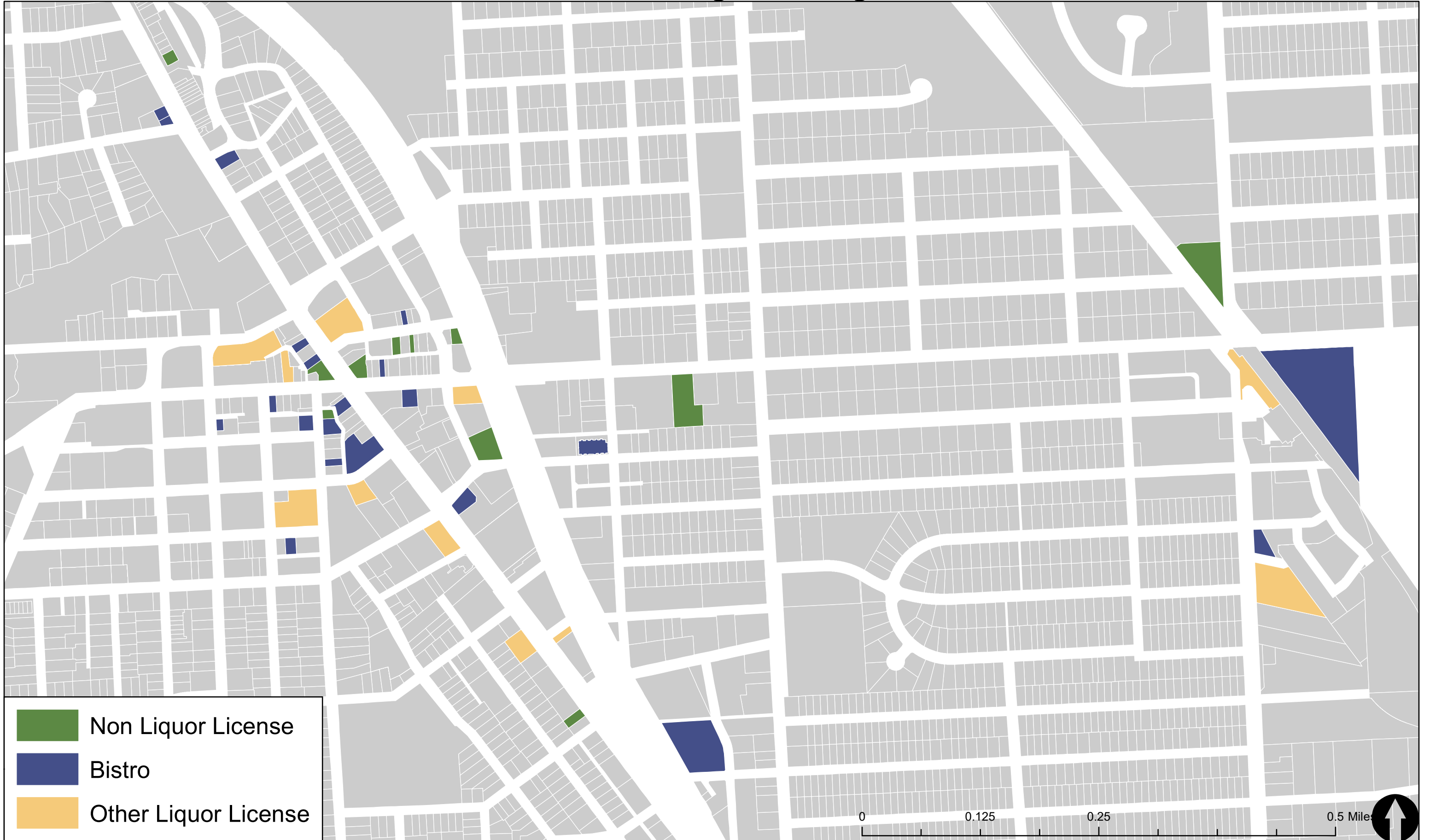
### Outdoor Dining

- Non-LL
- Class C LL
- Bistro LL
- Platforms
- Parking

ROW Spaces Downtown - 1270  
 Parking Spaces w/ Decks - 23

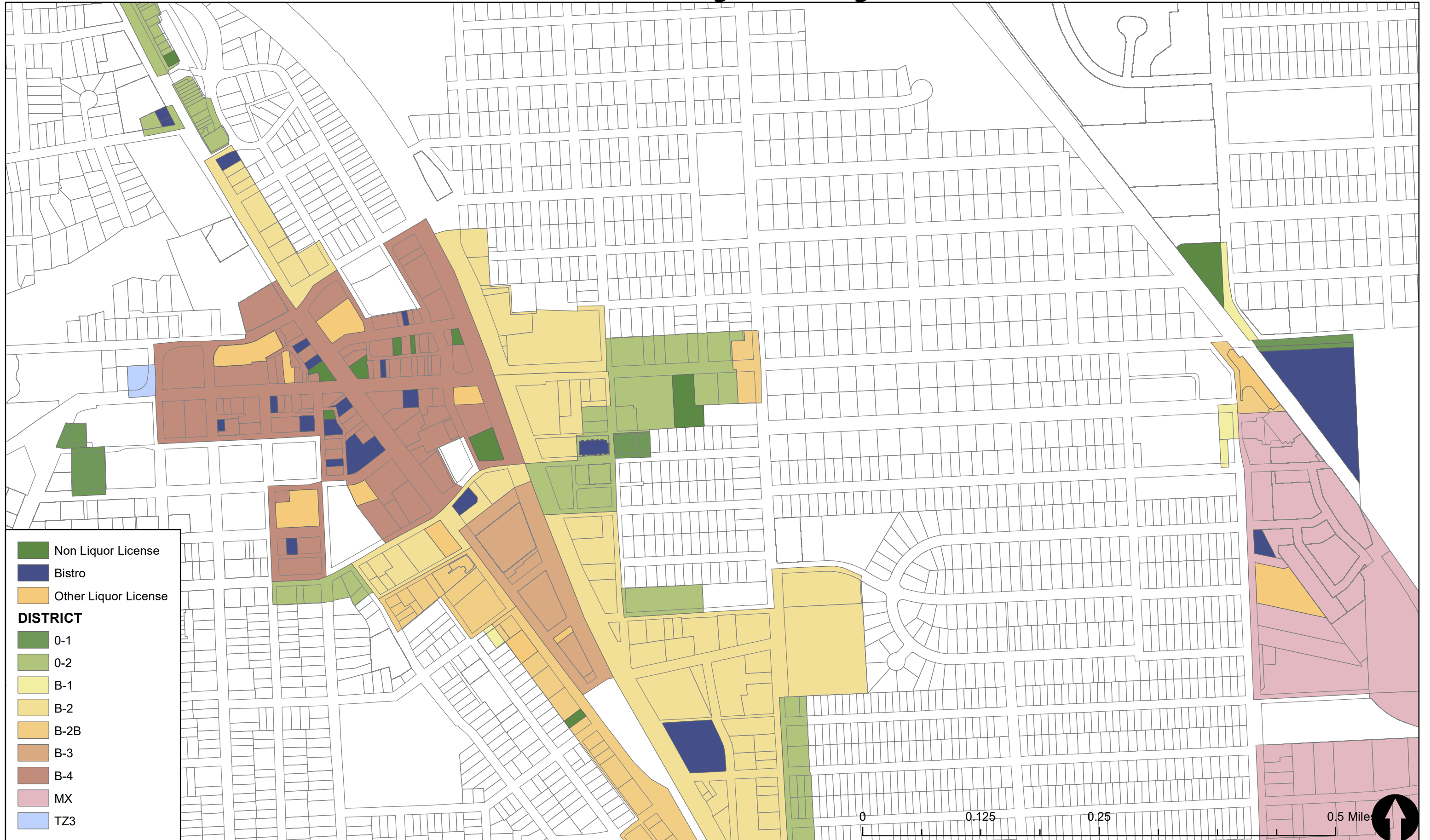


# Outdoor Dining in Birmingham





# Outdoor Dining in Birmingham



# OUTDOOR DINING DATA

		Outdoor Dining Seats			
		Public Property	Dining Platform	Private Property	TOTAL
BISTRO LL - 880 SEATS	Whole Foods (Maple Road Taproom)	0	0	33	33
	Salvatore Scallopini	34	0	0	34
	Luxe Bar & Grille	48	0	0	48
	Bella Piatti	6	22	0	28
	Market North End	0	0	44	44
	Adachi	0	0	67	67
	Bistro Joes	0	0	60	60
	Forest Grill	30	0	0	30
	Social Kitchen & Bar	56	0	30	86
	Brooklynn Pizza	41	0	0	41
	Elies Mediterranean	4	20	0	24
	Townhouse	52	24	0	76
	Churchills	12	0	0	12
	La Strada	14	0	0	14
	Toast	19	40	0	59
	Tallulah	0	42	0	42
	Pernoi	0	0	26	26
	Mad Hatter	24	0	0	24
	EM Bistro	24	0	28	52
	Bloom	36	0	0	36
Whistle Stop	28	0	0	28	
Japan Sushi	16	0	0	16	
CLASS C/OTHER LL - 589 SEATS	Griffin Claw	0	0	62	62
	Big Rock	0	0	97	97
	Dick O' Dows	36	24	0	60
	Townsend Hotel (Rugby Grille)	16	0	4	20
	220	0	0	78	78
	Phoenicia	0	26	0	26
	Hazels	0	0	22	22
	Streetside Seafood	8	12	0	20
	The Morrie	14	32	0	46
	Birmingham Pub	30	0	0	30
	Shift, Sidecar, Slice	90	0	0	90
	Mare Mediterranean	14	24	0	38
NON-LL - 214 SEATS	Be Well	0	0	12	12
	Birmingham Roast	24	0	0	24
	Commonwealth	20	32	0	52
	Hunter House	0	0	18	18
	Papa Joes	0	0	18	18
	Canelle Patisserie	12	0	0	12
	7-Greens	8	0	0	8
	Birmingham Sushi Café	12	12	0	24
	Starbucks	24	0	0	24
	Work Company, LLC	6	0	0	6
	Planthropie	4	8	0	12
	Beyond Juice	4	0	0	4

Recently Approved Outdoor Dining



<b>Application In Progress</b>
<b>Application Denied</b>
* Approved under first resolution
<b>Need to Confirm Numbers</b>
<b>Missing Information</b>

MUST MAINTAIN  
APPROVED SITE PLAN  
AND 6 FT SOCIAL  
DISTANCING



# 555 South Old Woodward “Birmingham Pub”





# 575 South Eton “Griffin Claw”



# 325 South Old Woodward “Adachi”





# 260 North Old Woodward “The Morrie”





# 525 North Old Woodward “LUXE”





# 505 North Old Woodward “Sal’s”



# 474 North Old Woodward “Market North End”





# Willits ally “The Dow”



# 117 Willits “Side Car”





# 100 Townsend



# 263 Pierce “Elies”





# 263 Pierce “Elies”



# 167 Townsend “Bella”



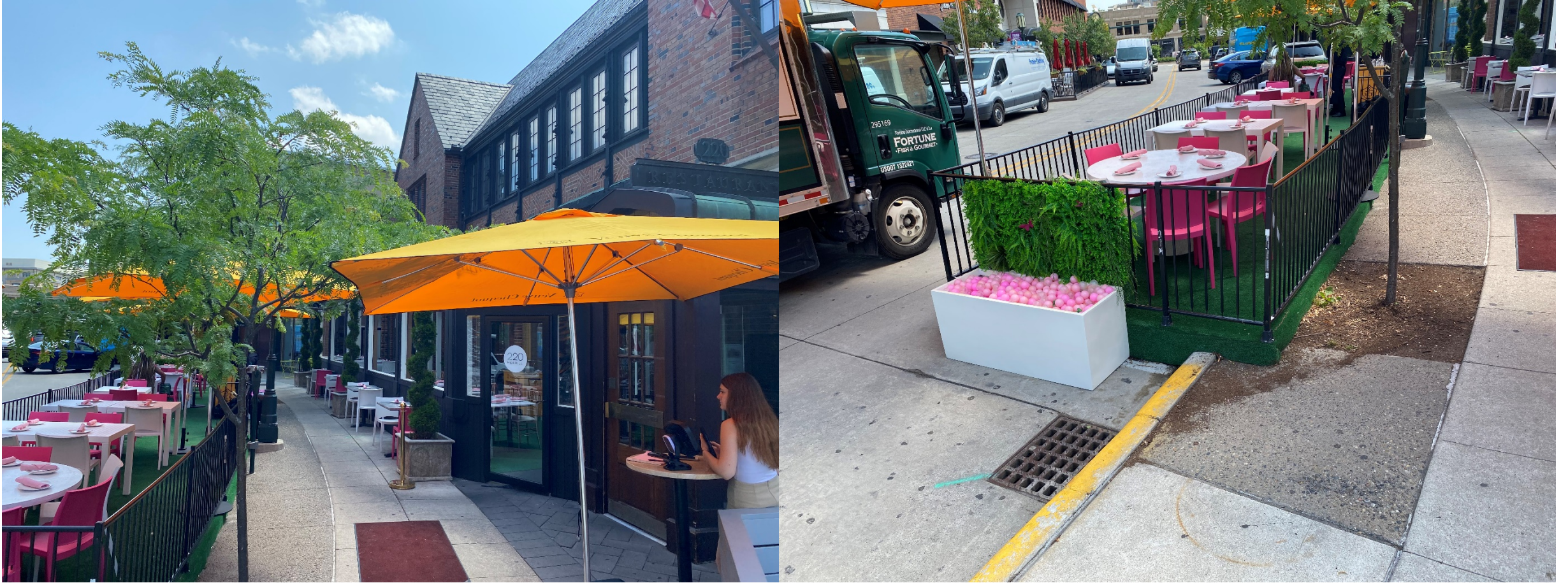


# 167 Townsend





# 220 Merrill





# 220 Merrill





# Temporary COVID-19 Off- Season Outdoor Dining Standards Expiration Date Analysis

Police/Fire/  
Building/Planning/Finance/  
Manager's Office



# Purpose/Provisions:

- The purpose of the temporary outdoor dining program was to provide our dining establishments with the opportunity to add additional outdoor seating to make up for lost indoor dining capacity from the State of Michigan's restrictions.
- The City implemented numerous economic relief efforts to assist business owners during the pandemic (free parking, waiving of fees & design standards, PPE distribution, temporary structures, gas heaters and propane tanks, etc. )
- All of the efforts were TEMPORARY measures enacted to address the COVID-19 pandemic.

# Challenges Encountered by the City:

- Temporary plans poorly designed and not supported by proper engineering documents.
- Plan reviews were cursory compared to permanent plans.
- Lack of meaningful enforcement due to legal conflicts (prosecutorial jurisdiction) between state, county and local law enforcement.
- Inequity of allowing temporary outdoor dining to exist without payment for use of public property compared to approved outdoor dining which has continued to pay for their space.
- Lack of design review led to some haphazard structures and layouts.
- Americans with Disability Act (ADA) standards and requirements that may have been compromised by the temporary deck designs and implementation issues in terms of width of passage, ramps and accessibility.



# Challenges Encountered by the City:

- Projects expanded beyond plans - creeping into sidewalks, yellow curb zones and streets.



# Challenges Encountered by the City:

- Dining decks were allowed to be erected in front of adjacent businesses, impairing visibility to retail and other uses.





# Challenges Encountered by the City:

- Safety concerns with propane heaters and storage tanks.



# Expiration Date: June 30, 2021 – Why is This Date Recommended by City Staff?

- The City's current resolution allowing for temporary COVID-19 Outdoor Dining Standards is set to expire on June 30, 2021.
- Recent media releases from the State of Michigan are that all remaining COVID-19 restrictions will be lifted on July 1, 2021 – All restaurants will be able to return to their original (allowable) seating both for inside dining and at their City approved outdoor dining locations.
- Stop the interreference with the public right of way, the blocking of adjacent storefronts, use of public parking spaces and public areas without compensation.



# Expiration Date: June 30, 2021 – Why is This Date Recommended by City Staff? (Cont.)

- Removes the risk that the temporary structures and dining platform “rules” would be allowed to continue to “drag-on” for extended periods of time.
- Other COVID-19 City initiatives have or are coming to an end on July 1: City Hall has begun a phased re-opening, parking decks will resume charging fees and in-person public meetings will commence.
- Desirable on-street parking spaces will return to service, hopefully reducing traffic issues, valet issues and assist retailer customers.
- Return to the City’s established process of site plan and design review by our staff, boards and the City Commission.

# Year-Round Enclosed Outdoor Dining

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## **SURVEY RESPONSE REPORT**

13 July 2021 - 07 September 2021

### **PROJECT NAME:**

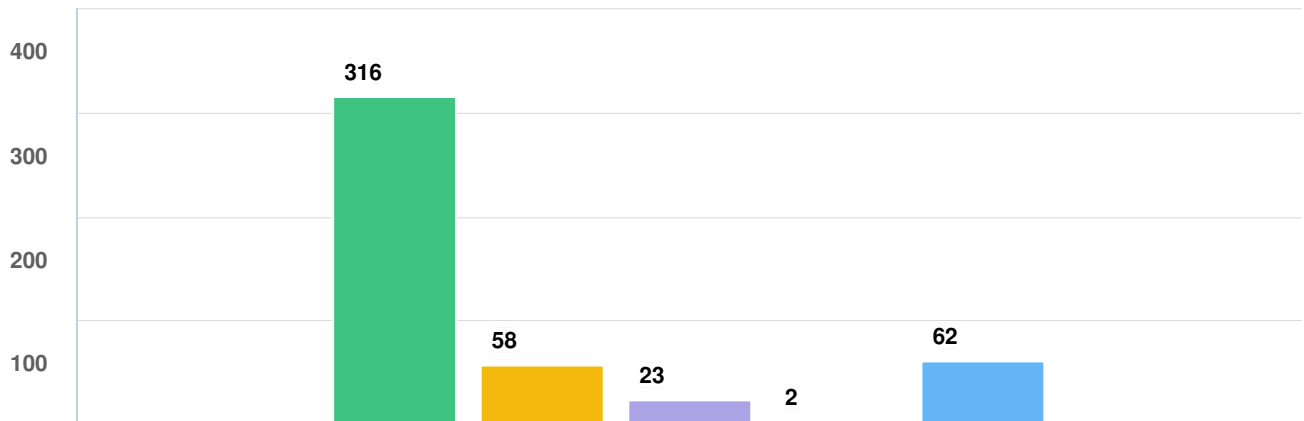
Year-Round Enclosed Outdoor Dining

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# REGISTRATION QUESTIONS

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**Q1** What best describes you? (check all that apply)



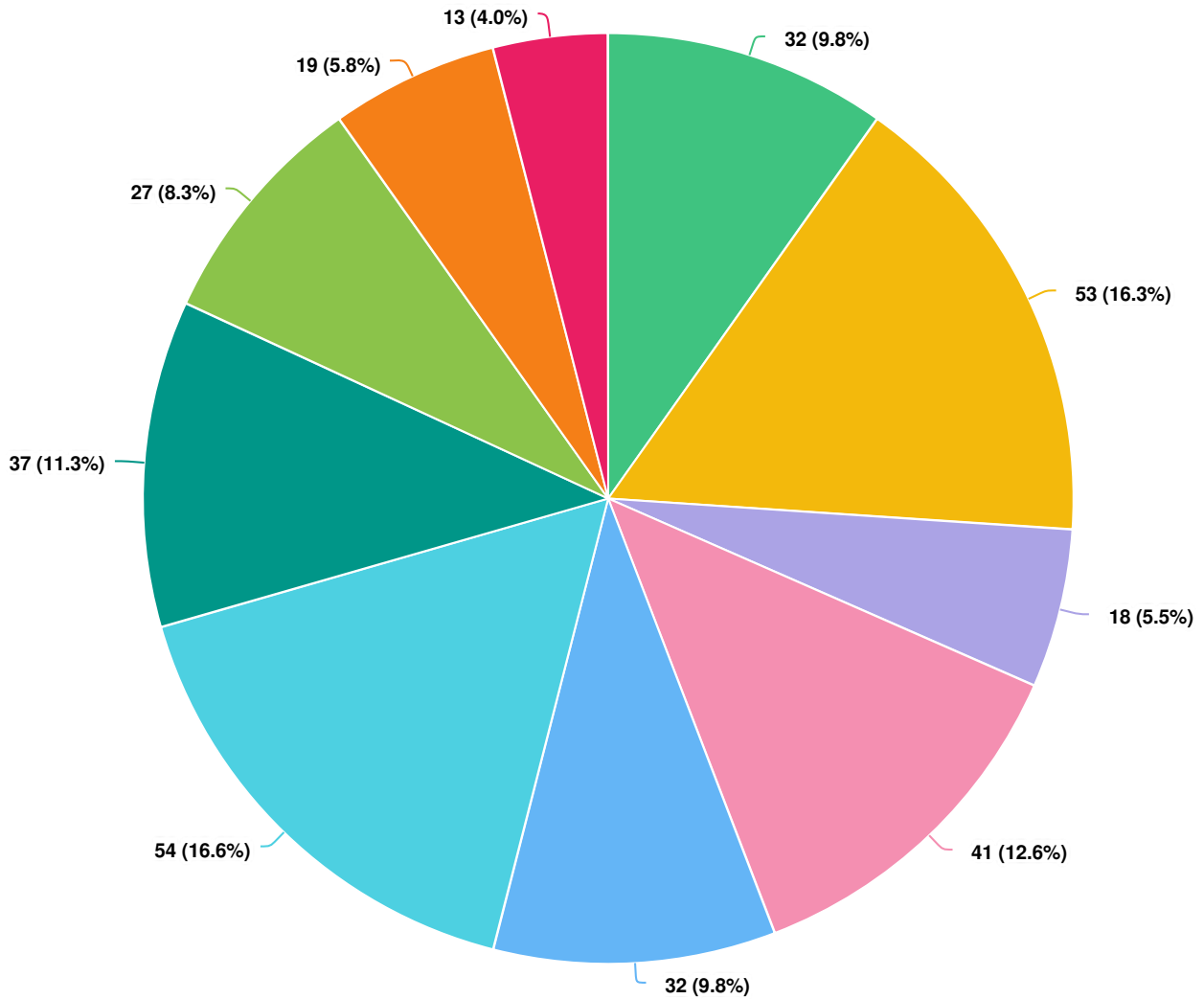
**Question options**

- I live in Birmingham.
- I work in Birmingham.
- I own a business in Birmingham.
- I am a student in Birmingham.
- I am a frequent visitor to Birmingham.

Mandatory Question (351 response(s))

Question type: Checkbox Question

**Q2** Which section of Birmingham do you live in?

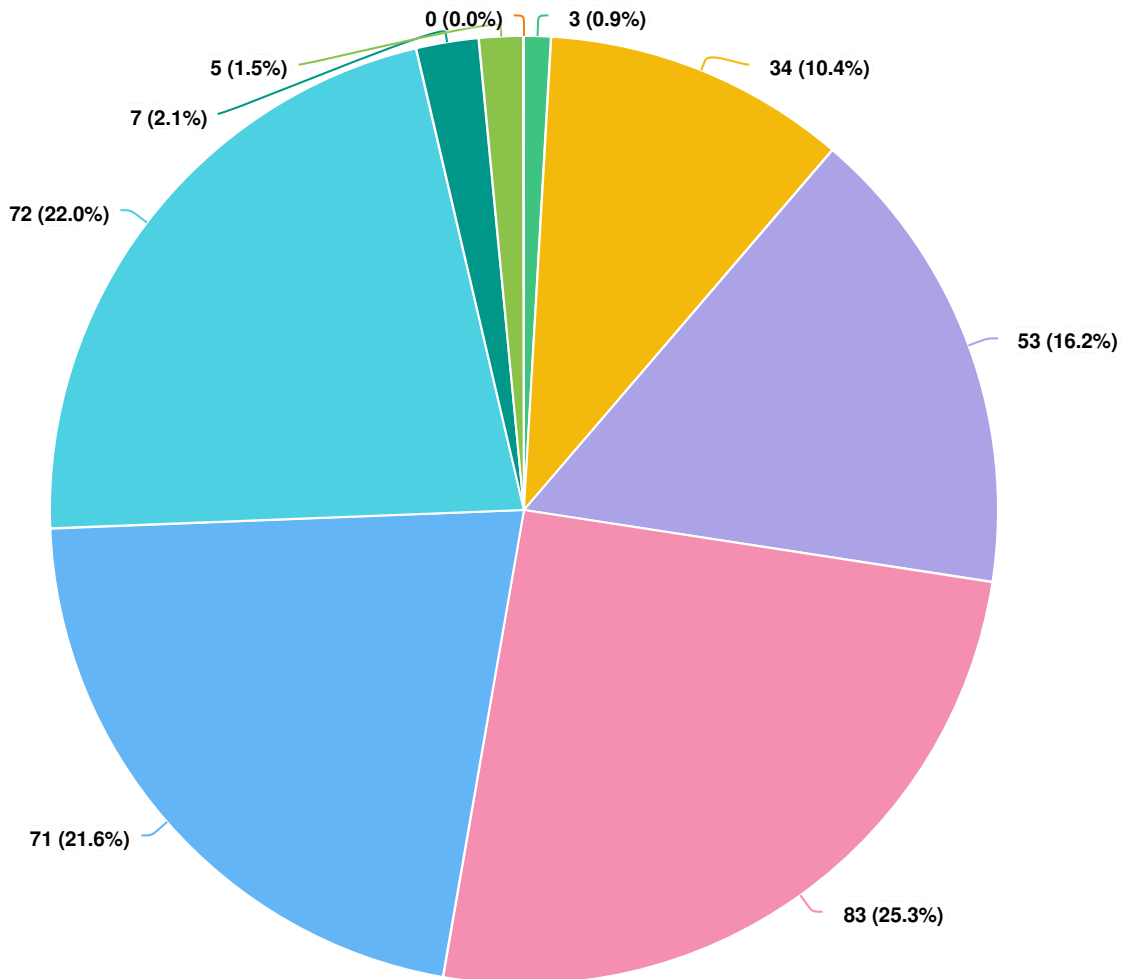


**Question options**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- N/A

Optional question (326 response(s), 25 skipped)  
Question type: Dropdown Question

**Q3** In which decade were you born?



**Question options**

- 1931-1940
- 1941-1950
- 1951-1960
- 1961-1970
- 1971-1980
- 1981-1990
- 1991-2000
- After 2000
- Before 1931

*Optional question (328 response(s), 23 skipped)  
Question type: Dropdown Question*

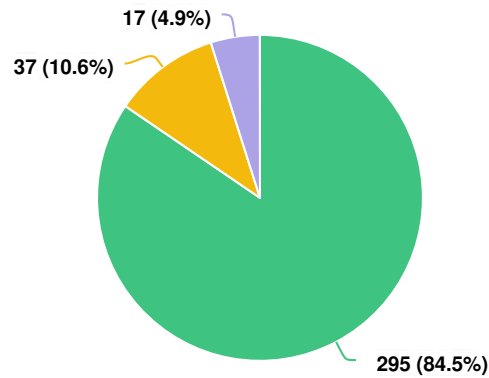


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# SURVEY QUESTIONS

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**Q1 | Do you think restaurants should be allowed to expand their dining platforms?**

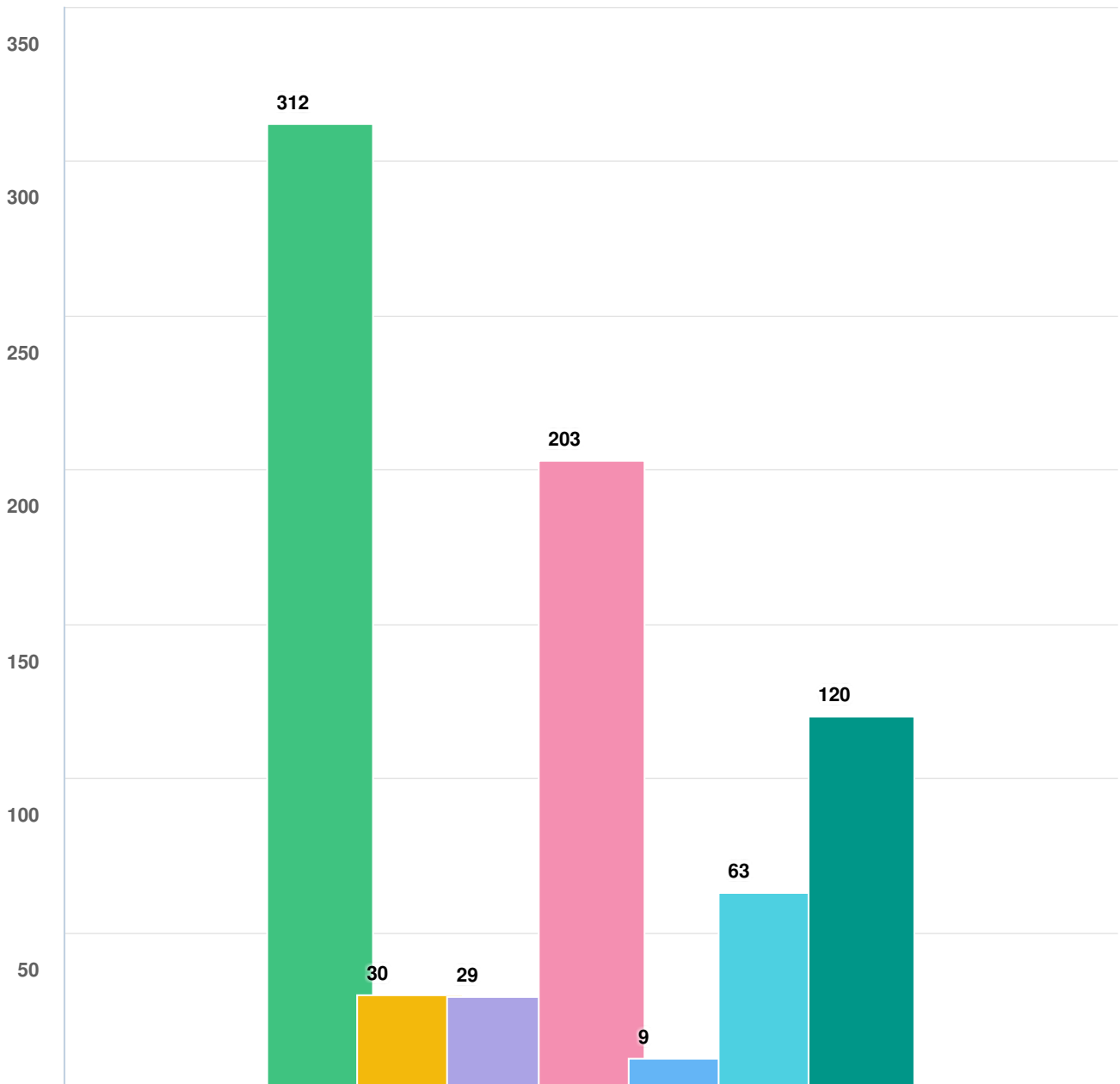


**Question options**

- Yes, the City should allow expanded year-round platforms.
- Yes, the City should allow expanded platforms from April through November.
- No, the City should not allow expanded platforms.

*Optional question (349 response(s), 2 skipped)*  
*Question type: Radio Button Question*

**Q2 Which of these statements do you agree with?**

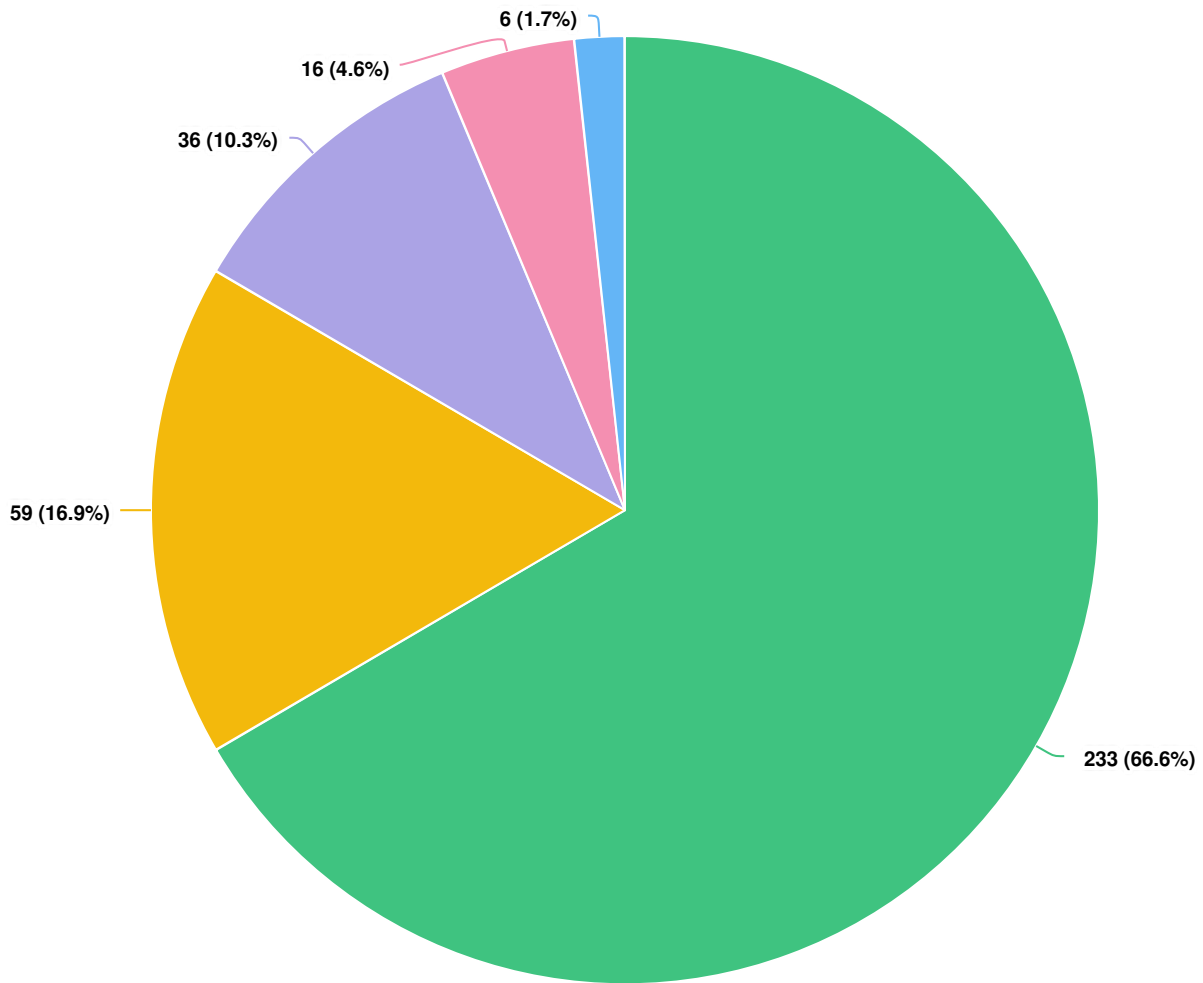


**Question options**

- I enjoyed the expanded dining platforms and wish for them to become a permanent part of Birmingham.
- I am concerned that outdoor dining platforms occupy needed street parking spaces.
- I do not like to use the sidewalk in between restaurants and their dining platforms.
- Birmingham's dining platforms are attractive and pleasant.
- I feel unsafe eating on dining platforms adjacent to the road.
- I feel that other merchants should be allowed to expand their sidewalk sales if restaurants expand their outdoor dining.
- There is adequate street parking in Birmingham.

*Optional question (349 response(s), 2 skipped)  
Question type: Checkbox Question*

**Q3** | What are your thoughts about outdoor dining spaces that are heated but not fully enclosed?

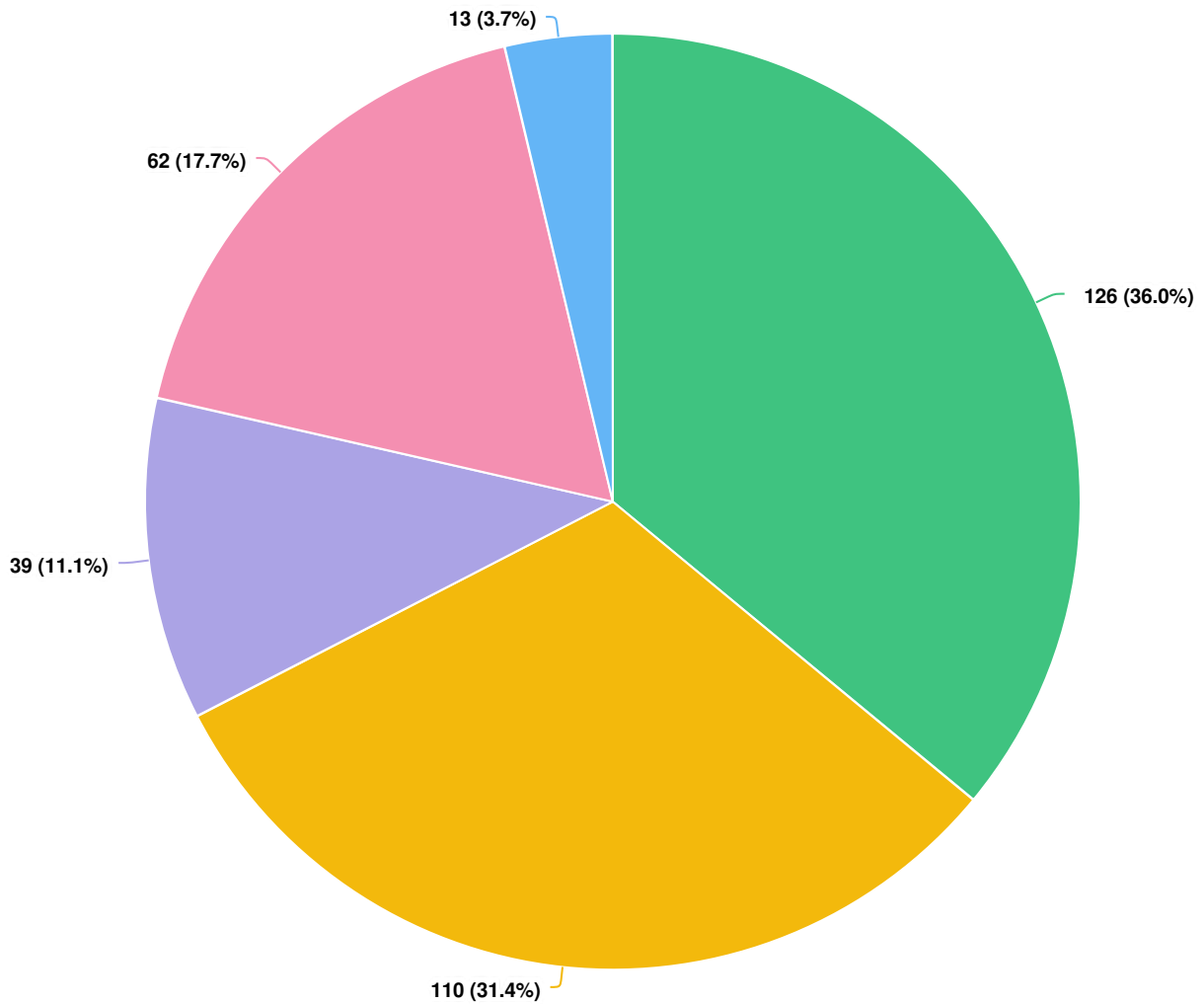


**Question options**

- I love them and would visit them year-round.
- I love the enclosures but would not use them in the winter.
- Neutral
- I do not wish to see this type of enclosure in Birmingham.
- Other (please specify)

*Optional question (350 response(s), 1 skipped)*  
*Question type: Radio Button Question*

**Q4 | What are your thoughts about private, fully enclosed dining spaces such as igloos and greenhouses?**

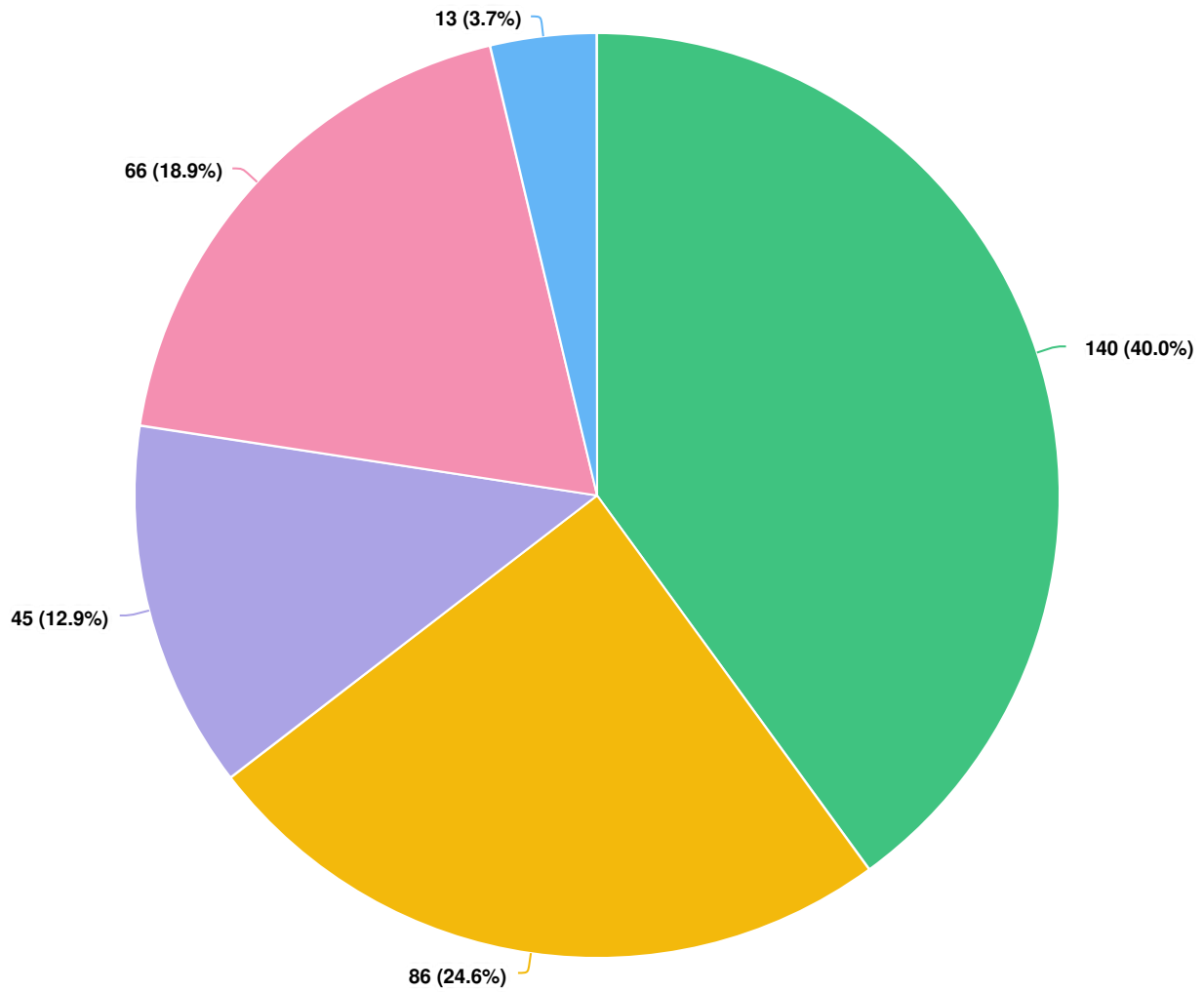


**Question options**

- I love them and would visit them year-round.
- I love the enclosures but would not visit them in warm months.
- Neutral
- I do not wish to see this type of enclosure in Birmingham.
- Other (please specify)

*Optional question (350 response(s), 1 skipped)  
Question type: Radio Button Question*

**Q5** What are your thoughts about fully enclosed dining tents?

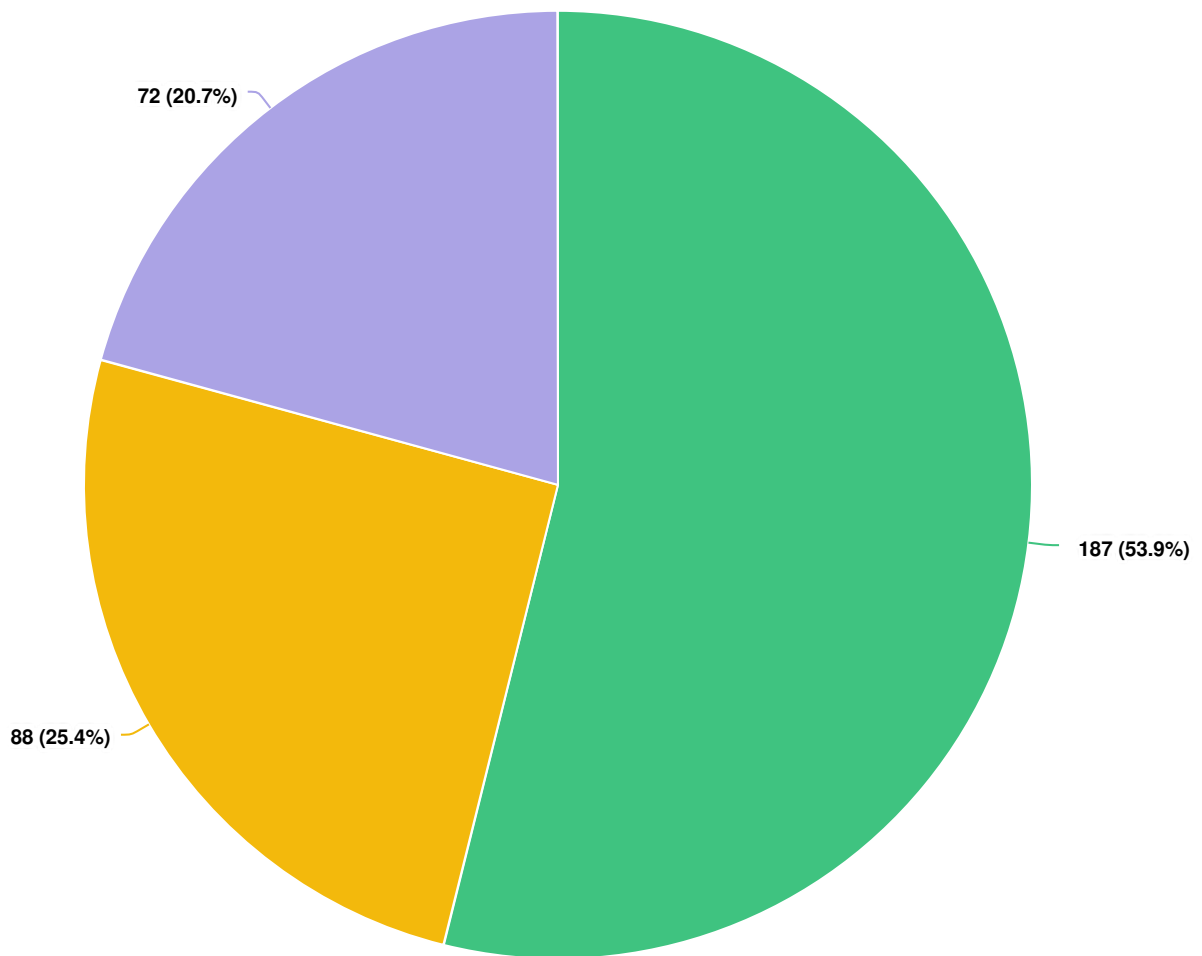


**Question options**

- I love them and would visit them year-round.
- I love the enclosures but would not visit them in warm months.
- Neutral
- I do not wish to see this type of enclosure in Birmingham.
- Other (please specify)

*Optional question (350 response(s), 1 skipped)  
Question type: Radio Button Question*

**Q6** Under the current ordinance, chairs and tables must be brought in each evening so that sidewalks may be cleared of snow and ice. Should a future ordinance include the same language?



**Question options**

- Yes
- No
- Other (please specify)

Optional question (347 response(s), 4 skipped)  
Question type: Radio Button Question



**Q7 | Please share any additional thoughts about expanded outdoor dining in Birmingham.**

Screen Name Redacted

7/13/2021 01:14 PM

I like the idea of providing creative dining options to the City to increase traffic; however, it needs to be intentional and thoughtful.

Screen Name Redacted

7/13/2021 01:15 PM

I prefer we expand the outdoor dining and shopping opportunities, and have no problem with limiting downtown driving and parking. Less traffic, more walkability.

Screen Name Redacted

7/13/2021 01:17 PM

We should absolutely have outdoor dining expanded in the winter, so we can enjoy the city year round. Especially if we utilize areas that are "dead space" on the sidewalks.

Screen Name Redacted

7/13/2021 01:17 PM

The expanded outdoor dining brought a positive energy and definitely enhanced the surrounding communities and businesses. I

---

fully support making expanded outdoor dining a permanent right.

Screen Name Redacted

7/13/2021 01:19 PM

Eating outside isn't just about having more space, it's more fun. It's attractive to the city when driving and walking through. It makes it look bustling and fun. I don't like the full enclosed tents as they can be large, but the cute and smaller ones like Bella Piatti are flattering to see. These spaces also give restaurants more flexibility and they need it. I feel that these spaces don't take up too much parking on the streets, and that's what we've got for..

Screen Name Redacted

7/13/2021 01:19 PM

The restaurants were here for us and got very creative during the shut down. They spent a lot of money and it increases the opportunity to dine at these establishments and I'm sure it increases revenue. They look very cute in the city.

Screen Name Redacted

7/13/2021 01:20 PM

I love the additional outdoor dining. I have not been inside a restaurant in Birmingham since the start of COVID but I have been to outdoor dining and really would like to see it stay in place even once COVID is past us.

Screen Name Redacted

7/13/2021 01:21 PM

Good for the summer months. Pushing it into the spring and fall is just okay. Does not make sense for the winter months.

Screen Name Redacted

7/13/2021 01:22 PM

More seating at all restaurants will help Birmingham thrive.

Screen Name Redacted

7/13/2021 01:23 PM

None

Screen Name Redacted

7/13/2021 01:24 PM

Outdoor dining is available in numerous cities thru out the country including the colder climates! I believe they have drawn more people to Birmingham to eat and shop. Its' GREAT that you can sit outside for up to 6 months and enjoy the Michigan weather. I know quite a few people who told me they made specific trips to have lunch or dinner in Birmingham because of the outdoor dining. It reminded them of Chicago, New York, Miami, South Beach etc and they LOVED it!! Bring this back!

Screen Name Redacted

7/13/2021 01:25 PM

Keep it, it's great

Screen Name Redacted

7/13/2021 01:26 PM

We don't want to be a city of the 1950's! Other wonderful forward thinking cities offer this. This is a new era we are living in. The answer is a slam dunk yes! Yes we should move ahead and offer this option!!!

Screen Name Redacted

7/13/2021 01:26 PM

Outdoor dining should be allowed year round. This is a city of activity and community. We ordered faithfully from local restaurants during the pandemic. We want business/restaurants to be successful so our city thrives.

Screen Name Redacted

7/13/2021 01:27 PM

I love the outdoor dining! I have always wished there was more outdoor dining, especially in the summer, but year around as well. This was the one good thing that came of Covid – having a lot more outdoor dining in Michigan. Please allow restaurants to continue outdoor dining, and allow heated, enclosed dining areas in the winter..

Screen Name Redacted

7/13/2021 01:28 PM

The City Commissioners and City Manager are too late as we should have had the additional seating through the summer post pandemic. They chose not to listen to its residents. Consideration from April through November should be considered. Most people will NOT want to eat outdoors in the colder weather/winter. (except for Mark Nakita).

Screen Name Redacted

7/13/2021 01:28 PM

We moved to Birmingham from Seattle in 2020. I absolutely loved all of the outdoor dining options. It made the city feel energized (even with COVID) and reminded me of Europe where people sit on the sidewalk enjoying the evenings. I think there should be some rules as to how things look, but generally I am in favor of a covered patio style so restaurants can still honor reservations when it rains. I liked the ones that had removable plexiglass side panels. I definitely like things to be more open air in the summer.

Screen Name Redacted

7/13/2021 01:28 PM

I think the expanded outdoor dining has been a great addition. I am sure it will help attract more people to Birmingham that will frequent local businesses. I would go even further and suggest to close off parts of Old Woodward, e.g., between Maple and Brown and turn it into a pedestrian area.

Screen Name Redacted

Outdoor dining adds a welcoming street vibe that indoor dining

7/13/2021 01:29 PM

cannot provide ; Europeans would laugh at this survey.

Screen Name Redacted

7/13/2021 01:30 PM

Its a huge investment and they should be able to use them outside year-round.

Screen Name Redacted

7/13/2021 01:31 PM

Expanded outdoor dining has been a huge, unintended benefit of COVID. I hate to see us lose this opportunity to keep these seats available. There is plenty of parking in garages all over town - let's keep the town more "walker friendly" and keep the outside for pedestrians, shoppers & diners. I love the outdoor dining!

Screen Name Redacted

7/13/2021 01:32 PM

Love the outdoor dining.

Screen Name Redacted

7/13/2021 01:32 PM

I am so disappointed that Birmingham chose to remove the additional outdoor seating areas. I would like to see it come back in some format

Screen Name Redacted

7/13/2021 01:34 PM

So uplifting! Made it much more enjoyable to walk around downtown

Screen Name Redacted

7/13/2021 01:37 PM

The charm and appeal of Birmingham is that of a small town. Since these structures have been added to the DT area it has become so congested, busy and chaotic that we don't enjoy walking or driving into town anymore (we live in the Crestbrook neighborhood). The sidewalks are so crowded with spillover diners from restaurants that the DT has lost its charm and instead now feels like that of a very busy but small city. Although it's great that Birmingham has become a destination for dining, it can still be that without the addition of ugly, large structures that block the view of other businesses and the natural beauty of the buildings. There are plenty of dining/seating options in DT we don't need to any more seating options especially when they're intrusive of other businesses. Most importantly they're dangerous for drivers and pedestrians! Numerous times I've been almost hit or witnessed pedestrians or strollers almost being hit because these structures are blocking the view of the street/corners. Drivers seem so distracted as they search for parking they aren't even looking for pedestrians and these dining structures just bring in more vehicle traffic and distracted drivers. I strongly encourage the city council to keep the current rules in place and not allow the DT area to lose its charm.

Screen Name Redacted

7/13/2021 01:37 PM

COVID-19 is far from over so outdoor seating is a must for the business owners and patrons.

Screen Name Redacted

7/13/2021 01:39 PM

Many restaurant have invested in expanded platforms and eating areas during Covid, and from my perspective, it has been a huge success. Why make them tear down these structures when they obviously are bringing people into Birmingham and people enjoy the opportunity to sit outside. There is so little street parking in the downtown area, a few less spaces won't make a big difference. (People can easily use the first-2-hour free parking structures.) Also, some of the more permanent structures seem very nice. Why make the restaurant owners tear these down in the winter. Snow and ice can be removed around them. Put the onus on the owner to ensure the pavement is clean and safe.

Screen Name Redacted

7/13/2021 01:42 PM

I have loved the outdoor dining, especially in our better weather months. It's very european and creates a nice new flair to the same old. People love to be outside, Please keep them.

Screen Name Redacted

7/13/2021 01:43 PM

Please keep outdoor dining!!

Screen Name Redacted

7/13/2021 01:44 PM

Outdoor dining DEFINITELY makes Birmingham a better city and makes it more enjoyable. I live here because of its beautiful downtown and this makes it better. PLEASE consider making it EVEN BETTER by experimenting with closing off a few streets to vehicles 1 or 2 Saturdays a month in summer and creating a european style walking zone (fussganger zone). Cannot realistically do it to many streets and some will consider it a hassle, but this is what makes Germany and other places in Europe great in the summer. Expanded outdoor dining and no vehicles nearby. Possibly pick a block, close it off for one Saturday a month and call in Fussganger zone day with the following options: A) Allow expansion of dining/shopping of those businesses on that block into street and people to walk, eat and drink within that zone B) Allow expansion of dining/shopping of those businesses on that block into street and people to walk, eat and drink within that zone and allow other Bham restaurants to set up stands and tables in the street. C) Get some variety and invite food trucks to set up in road along with the restaurants and stores on that street to expand dining/shopping into street and people to walk, eat and drink within that zone . The naysayers will think its an inconvenience but it

leverages one of our best attributes in Bham which is a beautiful vibrant downtown area

Screen Name Redacted

7/13/2021 01:44 PM

I loved the increased outdoors experiences and I think they add a beautiful touch to the city appearance.

Screen Name Redacted

7/13/2021 01:46 PM

They create a wonderful atmosphere and a vibrancy to town we need to maintain

Screen Name Redacted

7/13/2021 01:51 PM

Expanded dining options bring people and liveliness to Birmingham streets and create more shopping opportunities for merchants.

Screen Name Redacted

7/13/2021 01:52 PM

Close the streets at night to vehicle traffic and allow the restaurants to use the street. It happens in many cities including European city centers and Birmingham would be perfect for that situation, in warm months.

Screen Name Redacted

7/13/2021 01:54 PM

Let's encourage more dining and shopping in Birmingham by giving people dining options year round.

Screen Name Redacted

7/13/2021 01:58 PM

Year around enclosures serve their purpose in warm weather if it's raining and they add lots of life to the city in the winter with their hubbub and hanging lights. I'm in favor! There aren't enough pedestrians to be concerned with sidewalk encroachments they might pose. No problem walking through them. Strongly in favor! European cities have outdoor cafes all year long. It's at least worth another trial year now that covid is "over" to see if people are still interested in year round outdoor dining. I'm also in favor of more food trucks around but that's another topic.

Screen Name Redacted

7/13/2021 01:59 PM

As longtime Birmingham residents who frequent many restaurants in town, my wife and I were very disappointed by the seemingly sudden decision to pull-back expanded outdoor dining. Summer had just started. Restaurants had gone through a great deal, just to survive through the C-19 crisis. It was a very short-sighted, non-business like decision. Many cities are closing their key streets to vehicles and making streets walkable. That would be much preferable to restricting restaurants, for a few parking spots. Also, this would cut down on the ridiculous speeding by vehicles, in the restaurant district. Thank you. Don Warwick

Screen Name Redacted  
7/13/2021 02:00 PM

The loss of street parking really effects the non restaurant business and should be strongly considered.

Screen Name Redacted  
7/13/2021 02:01 PM

I think food trucks should be allowed in the parks .

Screen Name Redacted  
7/13/2021 02:02 PM

I feel outdoor dining is important to the look and feel of Birmingham. Much like similar cities in Michigan, the US, and Europe, this is a great idea for bringing people into Birmingham to enjoy the downtown area.

Screen Name Redacted  
7/13/2021 02:04 PM

Increased business to our local businesses is good for Birmingham. Our city leaders should be more proactive working with owners to develop solutions to the challenge of new positive changes for our city.

Screen Name Redacted  
7/13/2021 02:04 PM

Outside dinning year round provides both customers a good experience especially on those wonderful late fall and now and then nice winter days. For those establishments who want to participate this gives them the ability to increase their revenue and provide guests a unique experience.

Screen Name Redacted  
7/13/2021 02:06 PM

I have absolutely loved it! It brings such an incredible energy to the city and will attract people to downtown Birmingham all year round. I love that it expands dining capacity and also helps restaurants that have struggled the last year to make up that income. Please continue to allow this.

Screen Name Redacted  
7/13/2021 02:06 PM

Times have changed and changes should be made with Birmingham dining.

Screen Name Redacted  
7/13/2021 02:09 PM

Most were tasteful but that huge enclosure on Townsend was over the top ugly.

Screen Name Redacted  
7/13/2021 02:12 PM

The pandemic showed all of us how wonderful it was to be able to be outside, warm or cold, and enjoy our restaurants. I think it is a shame that the platform dining area at Bistro Joe's had to be removed.



Screen Name Redacted

7/13/2021 02:13 PM

I appreciate and applaud the restaurants that were able to stay open during the pandemic. If they are willing, they should be allowed to maintain their expanded outdoor seating areas.

Screen Name Redacted

7/13/2021 02:14 PM

In general, I am fine with expanded outdoor dining, as long as its done right. I don't have a problem with outdoor dining taking over a few parking spaces or an alleyway - to me, the loss of parking spaces is a minimal side effect and people can walk from the decks. However, I do feel that the sidewalks are still necessary and do not support restaurants turning the sidewalk into their own (outdoor) dining room. I walk my dog regularly and also am a runner and utilize the sidewalks for walking/running. When restaurants turn the sidewalk into a dining room, it essentially pushes the pedestrian traffic into the street. This is not safe! Example: Luxe Grill and Sal's made the sidewalk their dining room over the last year+. It was not possible to walk through that area with a dog or go for a run through there as the added tables, waitstaff, people standing around, strollers sticking out, etc, made it not easy to walk/run through there. I often had to walk out into the street (behind the angle parked cars that could easily back into me) not to mention the traffic traveling on the street. I had that issue multiple times. It simply was NOT SAFE and I am surprised there was not more complaints or concerns for pedestrian safety.

Screen Name Redacted

7/13/2021 02:15 PM

It would be great for the restaurants to continue their expanded seating, both for summer and winter.

Screen Name Redacted

7/13/2021 02:16 PM

I wish there were more family-friendly restaurants in B'ham. I know that isn't your question here but thought I'd offer my opinion. Too many steakhouses and fancy, costly restaurants and not enough family restaurants other than all the Coneys.

Screen Name Redacted

7/13/2021 02:18 PM

Birmingham is such a nice city downtown so keeping it not over too much with outdoor seating is important. Winter walking and sidewalk cleaning is critical if we want to have a clean and safe winter environment.

Screen Name Redacted

7/13/2021 02:22 PM

I believe a lesson from the covid experience and even more broadly what makes a city like Birmingham vibrant and adds to its character is its walkability, shops and most importantly the outdoor

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cafes/restaurants/bistros that bring the streets to life! It creates a healthy commercial environment where all the stake holders benefit.

Screen Name Redacted

7/13/2021 02:29 PM

It is great in the summer to eat outdoors, but I'm not a fan in the winter.

Screen Name Redacted

7/13/2021 02:35 PM

I love the outdoor options and would like to see actual dining districts in summer and winter. To me, it makes downtown feel festive and vibrant year-round. I wouldn't mind seeing one of the streets blocked off for outdoor seating. I thought that our restaurants handled the outdoor expansion in a tasteful and fun+eclectic manner. Much like our residential streets, we saw a little bit of everything, and the sum of the parts was very appealing. This is one of the remnants of the pandemic that I hope remains: a great outdoor dining scene 365 days/year!

Screen Name Redacted

7/13/2021 02:39 PM

I felt the enclosures were a way for restaurants to maintain their business during covid especially in winter. Like outdoor seating weather permitting but would opt for indoor seating when covid is gone.

Screen Name Redacted

7/13/2021 02:39 PM

Many of these restaurants have made a large investment to create an outdoor dining experience for their customers during this pandemic. I think it is unfair for the city to not allow the outdoor dining to continue just because this pandemic is coming to an end. As a result of the pandemic we now have a whole new way to vote (that all you liberals out there LOVE because it got you Biden)), so now we have a whole new way to dine as a result of the pandemic. You can not have it both ways.

Screen Name Redacted

7/13/2021 02:40 PM

The platforms erected during the covid pandemic were attractive (with exception of 220 Merrill's additional platform) and a great asset to the city's dining scene in my opinion. I believe they should be allowed to continue as long as there is some sort of review process to make sure they are not garish.

Screen Name Redacted

7/13/2021 02:43 PM

Please keep the outdoor dining i believe they make Birmingham more vibrant and interesting..

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Screen Name Redacted

7/13/2021 02:44 PM

Expanded and year round outdoor dining is necessary for our town and to help support our bar/restaurant owners

Screen Name Redacted

7/13/2021 02:50 PM

I like the type of outdoor eating area Bella Piatti & the Townsend provided during the pandemic. Somewhat open, friendly, and not private. Everyone seems so concerned about street parking but the downtown is surrounded by parking structures and when was the last time all the structures were filled?

Screen Name Redacted

7/13/2021 02:59 PM

Once covid is over, outdoor dining during the winter will end. No one wants to eat out in the cold. Since you cannot control the type of structure used for outdoor dining, you will see some very unattractive structures and it will completely change the look of our streets.

Screen Name Redacted

7/13/2021 02:59 PM

The pandemic taught us we need to allow businesses to do what they can to survive.

Screen Name Redacted

7/13/2021 02:59 PM

We really enjoyed the back alley set up at dick o dows especially with the heaters and table top fire pits. This was amazing and allowed us to go out with our daughter safely.

Screen Name Redacted

7/13/2021 03:11 PM

This is a no brainer . Expanded all year dining is a must.

Screen Name Redacted

7/13/2021 03:24 PM

I think the outdoor dining enclosures are a nice addition to the downtown Birmingham experience. I enjoy eating on the outdoor patios but would not want to be indoors in the summer months. I hope the city will allow restaurants to have the option to continue using these outdoor arenas. I believe that our lives, since covid have been forever altered. I don't feel safe with people sneezing and coughing all around me (which may be the case if I were at an indoor restaurant venue). I prefer eating outdoors where there is natural air circulation. There is so much uncertainty. Even though a person may be vaccinated, there is no evidence how long protection from the vaccine will last. The person sitting at the table next to me may be a carrier of the virus but have no symptoms. As far as I'm concerned, there is still a lot to be concerned about. I feel privileged to be able to go out and be social. However, let's not press our luck. We should continue to make outdoor dining available year round, for now.

Screen Name Redacted

7/13/2021 03:24 PM

Would also like to see restaurants allowed to serve alcoholic beverages to go and patrons be allowed to take them to a nearby park or while walking through town.

Screen Name Redacted

7/13/2021 03:35 PM

Outdoor dining has been a bright spot during the pandemic, and we should continue to encourage it. I would also consider permanently or temporarily closing streets to further enhance outdoor dining/entertainment possibilities downtown.

Screen Name Redacted

7/13/2021 03:38 PM

the questions are biased against allowing year long outside dining  
If the folks who made the survey disagree they do not understand how to word questions to be truly neutral

Screen Name Redacted

7/13/2021 03:44 PM

In bringing in the chairs for snow and ice, only if there aren't tents or part enclosures. The restaurant should then just be responsible for clearing it before they open.

Screen Name Redacted

7/13/2021 03:55 PM

Love it... was SO impressed with what NORTHVILLE did this year. We should have a "festival" one night mid-winter like they did. Just promoting outdoor winter dining options.

Screen Name Redacted

7/13/2021 04:04 PM

This whole concept must be very carefully controlled - in some instances what's being erected is close to "state fair" quality - very cheap and temporary looking. Most of the decks - to date - are first class - but the outdoor areas enclosed in plastic sheeting are downright cheap looking.

Screen Name Redacted

7/13/2021 04:11 PM

Additional dining options, i.e. outdoors is fun.

Screen Name Redacted

7/13/2021 04:20 PM

I love it! It makes the city feel more European. It enhances community and nightlife.

Screen Name Redacted

7/13/2021 04:25 PM

Birmingham has a charming European feel with the outdoor dining. Please keep it going/bigger!

Screen Name Redacted

I would love to see the continued use of outdoor dining in

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7/13/2021 04:28 PM

Birmingham. Although I might not use them in very cold or hot days, there are people who may do so. I love seeing people out dining and supporting our restaurants. This activity also brings more people to the retailers in town.

Screen Name Redacted

7/13/2021 04:34 PM

Winter stinks in Michigan. Let's try and make it a better experience.

Screen Name Redacted

7/13/2021 04:37 PM

I totally support this

Screen Name Redacted

7/13/2021 04:52 PM

Sidewalks for pedestrians need to be a priority

Screen Name Redacted

7/13/2021 05:10 PM

The current administration is tone deaf to the residents. Taking down the outdoor structures is senseless. Residents enjoy the added space and enjoy the outdoor atmosphere

Screen Name Redacted

7/13/2021 05:18 PM

We need to go even further we should take cars off the streets in the core of the downtown and make some walking areas with cobblestone streets like Europe. We should make pierce between merrill and maple and Martin between pierce and Henrietta all car free and use that space as a central gathering. I feel like we are leaving so much potential on the table for downtown bham. We should look to small downtown like cologne Germany where they have parts that are car free it would be so much nicer.

Screen Name Redacted

7/13/2021 05:26 PM

Create more parking spaces for quick pick up etc and market those properly. Then allow the restaurants to purchase the spaces from the city. There is ample valet and parking structures. There is no guarantee covid will not return this winter and businesses have already suffered enough. Allow them to expand if they wish.

Screen Name Redacted

7/13/2021 05:40 PM

They bring extra business to the city...it does impact parking! As long as it works I don't object. If it becomes a problem then the ordinance can be changed!

Screen Name Redacted

7/13/2021 05:44 PM

It is not fair to the other businesses in town to allow restaurants to take up much needed parking space on the street or allow them to block or cover the frontage of other businesses with their outdoor seating. Restaurants have returned to full capacity and should not

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be permitted to have more space.

Screen Name Redacted

7/13/2021 05:45 PM

I've been a resident of Birmingham since 2012 and have always wondered why we didn't have more outdoor dining options throughout all seasons. Many other cities that I have traveled to - with similar climates - seem to have more options than we do. I have enjoyed dining at expanded outdoor establishments over the past year and also have enjoyed experiencing how vibrant the city feels with more people on the streets.

Screen Name Redacted

7/13/2021 06:07 PM

Anything we can do to help restaurants navigate the situation as well as create safe seating is a positive.

Screen Name Redacted

7/13/2021 06:20 PM

Make/keep (I love walking distance I don't use it sorry!) valet easy, convenient, and CHEAP, keep the garages reasonably priced, and keep/get the good restaurants with good outdoor atmospheres and lots of seating available and people will come with or without those parking spots, but they won't come if they can't get in to eat anywhere and/or there's nowhere to sit outside on a beautiful night. Keep Birmingham pedestrian friendly and encourage ride share use with discount codes or some other promotion to offset any parking issues!

Screen Name Redacted

7/13/2021 06:34 PM

Overall , I think outdoor dining all year round creates a small town, friendly, welcoming atmosphere.

Screen Name Redacted

7/13/2021 07:19 PM

Consider making police station and adjacent park blocks walking only. Allow take out and picnics in the park with open containers. Examples like Vail & Beaver creek do this with great success and furthers bham's walkability model.

Screen Name Redacted

7/13/2021 07:25 PM

We should enable organic growth of businesses year around, and this includes innovation around dining during winter months.

Screen Name Redacted

7/13/2021 07:38 PM

Shut these super spreaders down entirely.

Screen Name Redacted

7/13/2021 07:48 PM

I prefer the sacrifice the small amount of parking, to add to the great outdoor dining experience that happened during 2020-2021

Screen Name Redacted

7/13/2021 08:01 PM

Since Covid I think outdoor is important. Even though I am vaccinated I still safer eating outdoors.

Screen Name Redacted

7/13/2021 08:07 PM

Outdoor seating is great! It adds charm to Birmingham. Other cities who will continue to have outdoor seating with pull customers from Birmignham if we don't offer it to customers.

Screen Name Redacted

7/13/2021 09:12 PM

We really enjoyed the option to dine outside in the cold months, and took advantage of it a few times (would have been more if not for covid and a baby). We liked the "apres ski" feel of the outdoor winter spaces and would really enjoy tasteful options for outdoor dining in the winter. That said, some structures/tents can be an eyesore. An "architectural" standard would be great

Screen Name Redacted

7/13/2021 10:26 PM

Due to covid 19, the outdoor expanded restaurants have been a god send for those of us who are concerned about eating in crowded restaurants. Love the outdoor eating with heaters!!

Screen Name Redacted

7/14/2021 03:17 AM

Outdoor dining benefits both restaurants and their employees, while giving patrons an opportunity to open air ans safer dining. In winter, igloos are more scenic and allow for private dining.

Screen Name Redacted

7/14/2021 04:21 AM

this is a no brainer not sure why the restaurants had to take them down this summer they were busy and everybody enjoyed them. This also helped the restaurants increase their income and after 2020 it was a win win for all

Screen Name Redacted

7/14/2021 04:58 AM

I live in Birmingham and there are many of our restaurants that I can't even go to on a Friday or Saturday night unless I make a reservation far in advance -- e.g., Casa Pernoï, Tallulah, Adachi, 220, Bella Piatti, Townhouse, etc. So, I am all for expanded dining in any form that allows for more seating at these restaurants, that might allow me to actually have dinner at one of my local restaurants.

Screen Name Redacted

7/14/2021 05:00 AM

I believe that ther should be an option for resruarants to expand their dining to outdoor, and since Michigan is so cold, there must be an option for those businesses to heat their space if they would like to. Why not expand the dininig in birmingham? And help these



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businesses out? I think that igloos are a thing of the past, and are unsanitary, but if a business wants them, they should be able to. Sidewalks still need to be accessible and should not be blocked under any circumstances.

Screen Name Redacted

7/14/2021 05:16 AM

Since Michigan has such a short outdoor dining season, enclosed or heating outdoor seating really makes the dining experience enjoyable all year round. It has been a fun experience for my family and I.

Screen Name Redacted

7/14/2021 05:29 AM

It's great for the restaurant and a great experience for the diner.

Screen Name Redacted

7/14/2021 05:35 AM

I loved the outdoor dining!

Screen Name Redacted

7/14/2021 05:35 AM

Restaurants are THE most important part of downtown Birmingham. Defer to them to keep their businesses flourishing!!

Screen Name Redacted

7/14/2021 06:01 AM

Having outdoor seating adds so much vibrancy to the downtown. While expanding will present challenges, I hope the City approaches expansion with a "can do " attitude and works with the merchants to address issues that may arise.

Screen Name Redacted

7/14/2021 06:03 AM

People generally want to be outdoors in warm weather. Restaurants should be able to utilize their space for patrons. I do not want to have to go to other surrounding cities for outdoor eating. This should be as accommodating as the shopping we encourage.

Screen Name Redacted

7/14/2021 06:18 AM

This is an important topic... we love the outdoor component and feel as though sacrificing a few parking spaces is a small give for this huge amenity!

Screen Name Redacted

7/14/2021 07:21 AM

Outdoor dining is one of the best things the city has to offer to get people to come to town in my opinion.

Screen Name Redacted

7/14/2021 09:14 AM

Just want to confirm that the strategies in other northern city climates are being reviewed to enable Birmingham to select best

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practices going forward for consumers, retailers and restaurateurs

Screen Name Redacted

7/14/2021 10:09 AM

Your survey wording is confusing and inadequately descriptive. Should the DATES allowing outdoor dining be expanded or date limits eliminated entirely? -YES Should the SPACE for current individual restaurant's space outdoor dining be expanded-NO Should more restaurants have option for year-round heated or not/partially enclosed outdoor dining?-YES Should tables and chairs be removed for snow and ice? -YES But every night? -NO (if they do not remove for snow or ice once, then outdoor dining privilege revoked--zero tolerance) Tents and "Igloos" in alleys -YES if no objections from neighbors. NOT on street sidewalks or streets platforms.

Screen Name Redacted

7/14/2021 10:09 AM

Restaurants have been very busy and still recuperating from Covid revenue losses. Let's give them an opportunity to recoup; however, only in front of their respective restaurants. The dining igloos, etc. should not be in front of other businesses, like the restaurant across from the Townsend Hotel had all winter. That is unfair to the other business owners .

Screen Name Redacted

7/14/2021 11:19 AM

Please made outdoor expanded dining permanent! It enhances Birmingham's reputation as a destination city and adds much needed spirit to our town.

Screen Name Redacted

7/14/2021 03:09 PM

As a frequenter of restaurants in bham, I would be absolutely dismayed if this is not amended. People LOVED the outdoor patios: Umbrellas do not do the same thing as an enclosed area. Restaurants barely made it out of the pandemic if they did so at all, and this was the one positive thing you allowed them to do, and now you're stripping it away immediately before they've even been able to get back on their feet. Many people, myself included, feel far more comfortable eating outside, but would love to do so in the shade, which this clearly anti-business measure makes way harder. Why can't people eat outside in the winter if they want to? Where's the harm? Frankly anybody who voted for this should be embarrassed of their vote-restaurants got crushed this pandemic, many of them invested a LOT of money to adjust to the times, and the cities decision to make them get rid of everything as soon as restrictions are lifted is foolish and cruel.

Screen Name Redacted

The city manager and planning director, in coordination with city

7/14/2021 04:25 PM

commissioners, should study and discuss the feasibility of closing two blocks of Pierce Street between Maple and Merrill to vehicles from 11 a.m. to 10 p.m. daily (or Friday-Sunday as a pilot) for a dining/pedestrian promenade. Retractable bollards can be used to allow emergency access, and deliveries/trash pickup can be restricted to 7-11 a.m.

Screen Name Redacted

Makes sense 9 months a year but not Jan-March.

7/14/2021 04:32 PM

Screen Name Redacted

Also allow outdoor fireplaces. We need the smell of burning wood in the air in fall and winter.

7/15/2021 04:50 AM

Screen Name Redacted

Birmingham is losing a lot of customers to downtown Detroit restaurants and other hotspots. Year-round outdoor dining would keep more customers in Birmingham and add to the ambiance of the city on the winter.

7/15/2021 07:16 AM

Screen Name Redacted

I believe that year round outdoor dining gives Birmingham a more cosmopolitan feel. In all of Europe people dine outdoors year round and I believe it would not take long for people to not only get used to it but seek it out. This would help all types of businesses in birmingham by drawing more people to visit here.

7/15/2021 07:29 AM

Screen Name Redacted

year round outdoor dining is great! it's a fun experience, makes Birmingham even more attractive (like a resort town), helps restaurants by allowing them more space. My family love it and I are totally in favor of keeping it going!

7/15/2021 08:05 AM

Screen Name Redacted

The city is dramatically more vibrant with the outdoor dining. Many of us are not comfortable returning to indoor dining for the foreseeable future and would like a way to enjoy Birmingham's restaurants (take our just isn't the same). Please bring this back!

7/15/2021 02:21 PM

Screen Name Redacted

Outdoor dinning year round is unique and enjoyable by all! Highly recommend you keep year round outdoor dinning.

7/16/2021 06:30 AM

Screen Name Redacted

If any expanded seating options are to be considered the following is necessary: Any parking spaces occupied must be paid at full occupancy cost to the city parking fund for the entire period

7/16/2021 06:52 AM

occupied at the meter rate. Any seating number above the original number permitted in the original licence application for any establishment must trigger a review of the licence criteria and a PAD parking review to include the cumulative loss of parking spots occupied by all outdoor structures. Any net loss of parking spaces by the establishment must be subtracted from their licensed occupancy numbers and if it reduces net seating, their licenced occupancy must go down accordingly. Any Bistro that exceeds the bistro limit must either limit to the Bistro ordinance or submit for a restaurant licence to gain higher seating numbers, the increased number only to be allowed if the restaurant licence is granted. A 3 strikes and out type concept is needed for legal compliance complaints. More than 3 then the seating must be removed and a cooling off period enforced of minimum 1 year. Zero tolerance of encroachment onto non structure permitted parking, ADA access, pedestrian walkways etc.

Screen Name Redacted

7/16/2021 07:59 AM

Dining venues should be allowed to add rooftop patios/dining if appropriate and feasible.

Screen Name Redacted

7/16/2021 10:03 AM

If you change this ordinance then there should be a total ban on complaining about parking. Contrary to what everyone \_says\_, people don't want to take advantage of the North Old Woodward and Chester garages when they eat at various spots downtown. And on-street parking - many is the time I've seen people block Old Woodward to try and snag a spot by one of the restaurants when there are 10-20 open spots merely a block away in either direction (never mind the open spots in Lot 6 for those on N Old Woodward!). Reminds me of the days when the Jacobson customers of the Maple/Chester store (now McCann Detroit) would idle in the eastbound lane of Willits/Oakland waiting for a spot to open up in the parking lot (they'd do this for 30 minutes-1 hour at a time!). Maybe run the season March - November? We're having warmer springs now and it could be a compromise that might placate some. However, snow removal remains the absolute #1 reason for not allowing these from December to February/March. I can't help but think this will make it much harder on both the drivers and those restaurant employees who have to shovel. Has DPS had a say in this? What happens when the snow plows damage a platform? The platform on Ravine was problematic because it was almost impossible to squeeze two cars through - it's bad enough when there are cars parked there, but it's somehow easier for drivers to gauge how close to get to those than how close to get to a structure with walls, ha ha. However, with snow, it quickly becomes one wide lane rather than two. It's a street and we still

need to use it for cars! What about liability for both employees and patrons when it's icy out? I think expanding this ordinance just increases the total seating of all of the applicable places - and runs afoul of the Bistro licenses in particular. I wonder if places like Townhouse want this because their regular seating is limited \_by a design they created & submitted and which was approved as is\_. As far as roof/no sides - the patrons who think this is a great idea now will really want to sit under a cupola in January with driving snow? FYI, when they pull up platforms such as those by Bella Piatti there are clear signs of rats and other vermin living under them (and why wouldn't they take advantage of such a great shelter with a food source?!). Permanent structures, I fear, would lead to an increase in pest problems in the streets - I've already seen rats in the streets in the early morning (and a dead one on the sidewalk) and I don't really want to be like NYC or New Orleans or Tokyo (all places I've spent considerable time) where it is commonplace to see them every day/night. Tables and chairs are enough. Maybe the Commission can set some guidelines for those that will make it both more comfortable for patrons and easier for the employees who haul them in/put them away.

Screen Name Redacted

7/16/2021 02:59 PM

I love the outdoor dining - it is such a PLUS for our community!

Screen Name Redacted

7/16/2021 04:00 PM

The outdoor dining was a big draw for us during the colder months

Screen Name Redacted

7/16/2021 04:08 PM

Please study Royal Oak's Social District to permit walking with alcoholic beverages within a defined perimeter(s).

Screen Name Redacted

7/16/2021 07:16 PM

N/a

Screen Name Redacted

7/17/2021 02:57 AM

As Birmingham residents you are forcing us to go to other communities by shutting down outdoor dining.

Screen Name Redacted

7/17/2021 09:34 AM

There is no reason for Birmingham not to allow year-round outdoor dining. It brings additional people to downtown for all the other businesses

Screen Name Redacted

7/17/2021 02:17 PM

In cooler seasons, many European restaurants with outdoor dining provide and drape a rug/ blanket over the back of dining chairs for

use when it gets chilly. It's a nice hospitality touch. I support expanded outdoor dining so long as the facility, when built, isn't actually and simply an indoor dining room space extension; Outdoor dining needs to be differentiated from indoor dining. If there is glass, or similar, for windows, the square footage should be extensive so you can see out and watch the falling snow! Outdoor spaces don't always need to be 100% enclosed - otherwise it is not outdoor dining. Some 'outdoor' dining areas in the City last winter were 100% enclosed, therefore not really outdoor dining. Thank you.

Screen Name Redacted

7/18/2021 06:32 AM

EVERY "beautiful city" in the USA, Europe and the Middle East has outdoor dining, enclosed, open, glass, plastic! Makes for a beautiful community and communal space. Which cities in Michigan are a destination for residents and better real estate values? Roseville or Northville? Plymouth or Warren? Grosse Pointe or Gibraltar? Rochester or Romeo. Holland or Ecorse? Instead of faux downtowns like the strip mall porn all over our burbs ( see: Waterford, Canton, Troy and their soulless "major retailer" concrete pads w/chairs). Take care of our boutique establishments. It's not about parking lanes. It's about community. Channel the same "politico" fervor for a restoration hardware big box... for what's best for LOCAL businesses. "The one thing about common sense, it's uncommon" -JD Andary "New resident from Oakland Twp"

Screen Name Redacted

7/18/2021 11:41 AM

We can walk to Birmingham from our house located in the Birmingham Estates neighborhood. Make frequent visits to outdoor areas like Ellies, Phoenicia, Salvatore, Luxe, Streetside, Tallulah and so many others. Right now we are not eating inside at any restaurants even though we are vaccinated. Still think the risk is too high with so many unvaccinated and the variants growing stronger. Please bring back outdoor to help our restaurants succeed.

Screen Name Redacted

7/18/2021 07:18 PM

I loved the way outdoor dining enlivened the streets of Birmingham's downtown. My husband and I are strong advocates to continue to allow and promote outdoor dining.

Screen Name Redacted

7/19/2021 10:02 AM

We loved the style Birmingham followed this last year and hope to see it again in the future.

Screen Name Redacted

7/19/2021 11:37 AM

Hey! We moved here from California where most of our favorite small businesses went under due to very strict covid measures.

Birmingham has literally and figuratively been a breath of fresh air for us, and I would LOVE to see more outdoor dining and retail options in the winter again. It gave our town a european vibe that I truly loved and added so much to the character of our fine city. Please help small businesses to keep thriving here and please keep the permit process open for these types of structures... we don't know what the future holds in terms of this epidemic, but even if it ended magically tomorrow, eating outdoors in the winter is SO FUN!!!

Screen Name Redacted

7/19/2021 01:45 PM

It would greatly benefit our city in promoting social engagement and financial gains.

Screen Name Redacted

7/19/2021 03:29 PM

I like the outdoor dining! It is a great enhancement for Birmingham. But, during normal times, we NEED more parking! That should be accomplished with additions to existing parking garages or building new ones. Way past time for the city to make this happen. The city owes it to the merchants and residents.

Screen Name Redacted

7/19/2021 03:52 PM

Fully support expanded outdoor dining and so do our friends and neighbors who may not take this survey. Go for it!!!!

Screen Name Redacted

7/20/2021 04:09 AM

I think it would be a major mistake for the city to not embrace the year round outdoor dining. It has been a positive game changer for Birmingham.

Screen Name Redacted

7/21/2021 02:28 PM

It would be detrimental to the retail stores. Additionally some restaurants have have expanded their outdoor dining areas to the point the sidewalk areas are difficult to navigate.

Screen Name Redacted

7/21/2021 03:26 PM

I love it, more outdoor dining, the better

Screen Name Redacted

7/23/2021 03:07 PM

Should be year round with a compromise for business owners feeling blocked from the street....

Screen Name Redacted

7/23/2021 06:22 PM

Expanded outdoor dining throughout the year makes me love living in Birmingham even more. It would be fantastic to be able to have this post-pandemic too. Reminds me of Europe very much, I also think it encourages community spirit.



Screen Name Redacted

7/23/2021 07:58 PM

I love the idea of keeping expanded outdoor dining year around. I do recognize challenges during winter months and would want sidewalks to be cleared and safe. If there is a way to accomplish both that round be great.

Screen Name Redacted

7/26/2021 12:14 PM

Over head structures (awnings or roofs should be considered to allow guests to dine outdoors even when the weather looks uncertain

Screen Name Redacted

7/28/2021 09:34 AM

The availability of increased outdoor dining may be the only upside of the Covid epidemic. I believe that people overwhelmingly prefer it to indoor dining. I understand that there are a number of codes that can make its permanent establishment difficult. But we should find a way to make it work, even selectively, to the locations where it makes the most sense.

Screen Name Redacted

7/28/2021 11:19 AM

I would love to see year round outdoor dining in birmingham. I already thing there is a limit to how much outdoor dining there is available in birmingham and would love to see even more, especially in the summer month! I do not want to sit inside restaurants at the current moment and having additional outdoor seating would be extremely welcomed! I think offering year round outdoor seating would be beneficial to restaurants as well!

Screen Name Redacted

7/28/2021 01:48 PM

Love outdoor dining. Wonderful option for residents and visitord

Screen Name Redacted

7/28/2021 03:13 PM

I think the outdoor dining during COVID has been one of the few bright spots It gives a vibrant, European feel to the city. If done with care and taste outdoor dining perfectly suits the upscale town.This winter and spring birmingham was as lively as possible. I enjoy outdoor dining so much now! I plan on putting on a parka and heading to the outdoor restaurants frequently even in winter. If I had a choice I would rarely go inside now that I see how much fun it is. Please consider at least one more year like last year while you evaluate the best permanent plan and details going forward for a permanent solution .

Screen Name Redacted

7/28/2021 05:41 PM

I love the ambiance and feel of the expanded outdoor dining

Screen Name Redacted

7/28/2021 05:41 PM

I found the expanded dining options to be attractive and added life to the city even during colder winter months. Igloos are too isolating and service in them was generally compromised.

Screen Name Redacted

7/28/2021 06:06 PM

My physician husband has had a kidney transplant and has zero antibody after vaccination. I am 67 and an asthmatic. We cannot and will not be able to eat indoors until the variants are under control. We cannot go into crowded spots with unmasked individuals. We only eat outdoors and frequent the outdoor dining. We were disappointed with the removal of the platforms. We cannot eat in inclosed tents with other people - that is the same as eating indoors. Thankyou

Screen Name Redacted

7/28/2021 06:32 PM

Keep outdoor dining open so those of us taking Covid seriously can still support our local businesses through in person dining vs just carry out!

Screen Name Redacted

7/28/2021 06:37 PM

Please include dining with dogs. Love to walk into town and eat

Screen Name Redacted

7/28/2021 07:07 PM

Expanded dining is great when it supports the restaurants needs and does not interfere with foot and vehicular traffic. However Townhouse either was given too much space towards the road or took too much, but the tents/seating was right on the curb of Martin and it creates a blind spot. Heading south on Pierce and turning west on Martin I have encountered pedestrians (walking east in my lane) head on. You can't see who or what is in the road from Pierce. There was no place for the pedestrians to go. The wall of Townhouse tents on Martin, trapped the people in the street. They were passed the parking spots/sidewalk entrance on the north side of the street. Cars were backed up eastward to turn onto Pierce and then I turned from Pierce straight into them. However the outdoor space is allocated to each restaurant , visible permanent markings should be made on the ground so it is obvious where a planter or wall should be placed and then enforce it! I can't believe the Townhouse setup was sanctioned by the city that close to/ or on the road.

Screen Name Redacted

7/28/2021 10:20 PM

I love the year round outdoor dining and believe that it encourages more people to eat out in winter months.

Screen Name Redacted

7/29/2021 05:43 AM

All the Other Cities around us Royal Oak Ferndale Northville Plymouth Detroit have mad Outdoor Dining work....Why does the City of Birmingham think they are different or that this option is not a positive thing for the City? Strong resturant business increases foot traffic in the city and the Small Businesses will profit. But maybe Birmingham would rather only have Large Corporate Business in the city?

Screen Name Redacted

7/29/2021 06:58 AM

Absolutely loved this. Was sad to see them removed this summer- the covers allowed for additional outdoor seating even if it was raining out. Loved the option of sitting outside instead of being crammed in next to others.

Screen Name Redacted

7/29/2021 07:28 AM

If restaurants choose to not clear sidewalks of chairs/tables - they should be required to shovel the snow themselves and clear the path without putting snow on other areas of the sidewalk. Or something like that.

Screen Name Redacted

7/29/2021 10:34 AM

The outdoor spaces let us enjoy the outside year round. It makes Bham a 12 month destination. Thanks to Covid we have learned what to wear to eat outside in all weather. It is so enjoyable! Please work with the restaurants.

Screen Name Redacted

7/29/2021 10:48 AM

Outdoor dining year round is charming way to expand seating. I love it in the winter as well as long as it's heated. Very festive!

Screen Name Redacted

7/29/2021 12:32 PM

In these uncertain times outdoor is desirable and the only option for safety and health benefits.

Screen Name Redacted

7/29/2021 01:42 PM

Outdoor street dining is a must for Birmingham. It is better for the town, the businesses, and the old world charm it adds to the city.

Screen Name Redacted

7/30/2021 04:17 AM

Expanded outdoor dining in Birmingham is definitely the way to go! It is more enjoyable and safer than dining in an enclosed area.

Screen Name Redacted

7/30/2021 04:35 AM

I would like to Pierce and Martin Street (the area around city Hall) pedestrianised in the summer months

Screen Name Redacted  
7/30/2021 02:42 PM

Why did B'ham administration move so quickly to RE-restrict outdoor dining options without public opinion? Most cities are embracing this Covid creation for further future design, but B'ham is still the known dinosaur. The Planning Board & the City Commission rule with iron fists in a vacuum. I've lived in the City for 30 years & it's becoming a place I no longer recognize, with self-serving administrators.

Screen Name Redacted  
7/30/2021 06:50 PM

Look at what Northville is doing.

Screen Name Redacted  
7/30/2021 07:18 PM

I think we should support our shops and restaurants and allow them to continue outdoor service year round!!!

Screen Name Redacted  
7/30/2021 07:25 PM

Some restaurants abused the space . With the new and "improved" Maple and Old Woodward--enough parking was taken away, platforms are not used enough in decent weather during the week--and don't even start thinking about closing streets on weekends to expand dining as in Northville and Ann Arbor

Screen Name Redacted  
7/30/2021 09:03 PM

Outdoor dining is so enjoyable for our family. Through covid we have learned to adapt to colder outdoor dining and have decided we will continue to patronize these options post-covid if available. However, we feel that FULLY enclosed single or group "outdoor" experiences are only suitable post-covid.

Screen Name Redacted  
7/31/2021 05:09 AM

I think expanded outdoor "open air" dining is needed in Birmingham. Even in the winter. It would have a European vibe and help business reach more customers all year. I will not dine indoors at the moment due to covid and the Delta variant but enjoy using the patios. I would love the option of winter dining outdoors.

Screen Name Redacted  
8/01/2021 09:08 AM

Dining outdoors adds much to our beautiful downtown area and contributes to a sense of community. All in favor!

Screen Name Redacted  
8/01/2021 09:22 AM

After all of the difficulties restaurants have endured over the last 18 months, to require them to remove their dining platforms in the middle of the season where they may make up for at least some lost revenue was simply unconscionable. They badly needed this break. Apparently the costs involved in the erection of these platforms, some quite costly, was ignored when the decision was

made. The outdoor dining scene in downtown, as lively and attractive as it was, has diminished dramatically. I can only say "shame on those who voted to remove the platforms". I hope residents remember this in the next election.

Screen Name Redacted

8/01/2021 12:51 PM

Outdoor dining has been a boon to those of us not comfortable eating inside and they are a lifeline for restauranteurs. I wouldn't want to see these structures up all year and don't think they should creep into neighborhoods.

Screen Name Redacted

8/02/2021 07:15 AM

Recommend closing certain streets to increase foot, rather than car, traffic. Preserve green spaces.

Screen Name Redacted

8/02/2021 09:09 AM

I live right downtown, and love the vitality of outdoor dining all year round. The city needs to figure out a way to make it work. I've visited nearly every downtown in our area. Northville, Fenton, Plymouth etc. All of them have something to teach us, and none of them have loud revving/screeching vehicles and motorcycles taking away from a nice night outdoors. Expanding our patios will help make Birmingham a more enjoyable place to live and visit. Losing those parking spots is a trade worth making.

Screen Name Redacted

8/02/2021 04:46 PM

Expanded outdoor dining provides a pleasant atmosphere and should be embraced. I have never had an issue finding parking in downtown Birmingham thanks to the parking structures, and losing a small number of street parking spots should not be a concern. If you think about what makes so many European cities enjoyable, pedestrian friendly streets and outdoor dining are a huge part of it. Birmingham should look at the great features and atmosphere that set it apart. People can go to Troy if they want large parking lots and no pedestrians.

Screen Name Redacted

8/02/2021 07:00 PM

I really have enjoyed the opportunity for outside dining in Birmingham in all seasons, including the winter. Please allow this to continue, and allow the establishments to utilize the expanded outside dining areas that they had last year - the reductions implemented at the beginning of July were disappointing. Thanks!

Screen Name Redacted

8/02/2021 07:07 PM

2020 was an exceptional year. If reviews/survey results are mixed on continuing outdoor dining in winter months going forward, then I would suggest a trial period of another year or two, for two

reasons: allow restaurants an opportunity to recoup some of their losses from 2020-2021, and also as a real-world test of proposed rules to see if expanded outdoor dining going forward will be workable for B'ham.

Screen Name Redacted

8/03/2021 11:47 AM

Having traveled abroad extensively, I'm surprised that it took Covid for al fresco dining to be embraced as it has. And with vaccinations helping to curtail the spread of Covid, you want to enforce the ordinance(s) and further punish these already suffering businesses! There was nothing unsightly about the "temporary" sidewalk cafes. If you want to charge the businesses for permits, then do so but not at the expense of having fewer options and less dining space! Why would you want to discourage people from dining in Birmingham by limiting space? Just don't keep changing your mind about what you're going to enforce and make the owners have to constantly make arrangements to remove and reinstall the tables, tents, and chairs during the same season. It's ludicrous.

Screen Name Redacted

8/03/2021 12:24 PM

The current outdoor structures that any restaurant in Bham has set up are all very pleasant to look at and extremely practical. The structures are welcoming and encourage diners to sit outside when they may have stayed home to be able to eat out on a back patio instead. Everyone I have spoken with feels the structures should all stay up to make outdoor dining available - outdoor dining is such a pleasant experience.

Screen Name Redacted

8/06/2021 10:36 AM

We would eat outdoors all year round and would like bigger outdoor dining areas especially in the summer months.

Screen Name Redacted

8/06/2021 10:41 AM

We want to eat outside all year

Screen Name Redacted

8/08/2021 09:48 AM

The pandemic is not over. Outside dining should return. I have yet to eat inside a restaurant since the pandemic began. Fully enclosed, public spaces seem to defeat the purpose, but open air facilities provide a safer alternative. If we want to support our local businesses, they need to have an outside dining option to offer. It is ridiculous that restaurants were bullied into removing such facilities in the middle of the summer by the city. It makes no sense.

Screen Name Redacted

Love the outside dining now in place in downtown and would be

8/12/2021 10:30 AM

very, very disappointed if City Planning takes it all away. The City restaurants have financially been so damaged from this pandemic and have taken such a hit I respect their ingenuity and forward thinking. My husband and I love the European flair of eating outside even if a wee bit chilly. It is also much safer. We also like the idea of closing the streets to parking and traffic. Love the pedestrian aspect and respecting Birmingham's motto as "A Walkable Community". I look forward to the results of this survey and fingers crossed Birmingham is able to keep unique flair.

Screen Name Redacted

8/17/2021 05:16 AM

There is plenty of parking in lots, and residents can walk too so there should be no complaints from those living near downtown. It is good for restaurants who are coming off a tough time with COVID and good for the city at large by increasing activity.

Screen Name Redacted

8/17/2021 05:31 AM

I feel that we should be supporting our restaurants in any way we can. The efforts made to provide outdoor dining options were immense and expensive. To prohibit these spaces while we are still in the midst of a pandemic is ridiculous and inappropriate. There is currently no end in sight regarding COVID and providing safer eating options gives residents/visitors some safer options than just staying home.

Screen Name Redacted

8/17/2021 06:13 AM

There is plenty of parking in the city. It is a walking community. If merchants are concerned about parking spots and sales it has nothing to do with accessibility of parking. If people are coming to eat they will shop if the merchants change their hours of operation and stay open during the dinner rush.

Screen Name Redacted

8/17/2021 07:38 AM

It should be allowed all year round! It was a fun option to be outside especially when when we tend to be stuck inside more in winter. It gives people who are still weary about eating indoors due to COVID an opportunity to still dine out in a way they are comfortable with. It gives restaurants additional seating and opportunity for increased revenue which I'm sure all restaurants could benefit from due to COVID. Other city's in metro detroit were creative in how they approached outdoor dining and I think Birmingham could be a little more creative when discussing this option. I think overall it will allow more residents and non-residents to dine in Birmingham but will also benefit the other businesses by bringing people into our downtown area.



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Screen Name Redacted

8/17/2021 09:46 AM

I loved being able to dine outside last winter and would definitely do so again next winter if the option was available. Outdoor dining also allows all of the restaurants to expand their capacity, which makes for shorter wait times and better experiences overall. Given all of the pandemic-related uncertainty, I think it's best to give the restaurants the most options we can.

Screen Name Redacted

8/17/2021 10:53 AM

Don't take our year-round outdoor dining away...we love it!!

Screen Name Redacted

8/17/2021 11:22 AM

I have lived in and around Birmingham my entire life except for the 7 years I lived in Manhattan, during which time I grew to appreciate the inextricable link between restaurants and the fabric and spirit of a town/city. The continued success of Birmingham depends on its ability to accommodate its restaurant owners and patrons. Not only is outdoor dining going to be necessary again this winter to keep patrons coming in due to the surge of the COVID, it's necessary for those restaurants to have extended seating to recoup the disastrous losses of income from the last year. What's more, it's proven that Michiganders enjoyed the spirit around outdoor dining (or "arctic dining" at its coldest) last year and if given the ability to get creative, patrons would continue to be all in. The Europeans and the New Yorkers figured this out a long time ago, we can too.

Screen Name Redacted

8/17/2021 11:41 AM

I froze my a\*\* off trying to support my favorite restaurants during the lockdown and you should be doing all you can to help them. This is a no brainer.

Screen Name Redacted

8/17/2021 06:34 PM

I dined outdoors throughout this past winter and loved it! It allows businesses to serve more people throughout the year, creates a pleasant space for dining, and a safer space during covid surges.

Screen Name Redacted

8/22/2021 07:13 AM

Please make it all year round! My family and I love it!

Screen Name Redacted

8/23/2021 05:57 AM

Restaurants should be accounted to clean (really clean sidewalks by the time they will close at night. What I use to see is garbage and dirty sidewalk in the block "some restaurants" are using the sidewalk. I refer specially to STARBUCKS. the sidewalk is always dirty and should be water pressure washed frequently by Starbucks, besides the garbage on the bins that they do not remove. I remember that the cups on the bins and on the sidewalk

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and a huge source of virus. Starbucks is dirtiest place in our town and we should have a better service from them.

Screen Name Redacted

8/29/2021 09:39 AM

We lived in Germany for several years and really enjoyed the outdoor dining in European city centers. It seemed to bring a really nice community feel walking through places like Frankfurt, Paris, or Vienna. In the colder months, it was common to see each chair with a blanket and heatlamps near the tables. And people always used them - winter or summer. I realize that there are some challenges here in Birmingham, but it would be nice to see if we can bring some of that outdoor dining culture and flavor to our streets. I feel this could be an opportunity to make Birmingham unique and stand out among our peer communities.

Screen Name Redacted

8/30/2021 12:40 PM

I think that during times of limited seating due to covid such structures are necessary to sustain our restaurants. However leaving them up when there are no restrictions leave a very gray space,,,,can start to look junky etc

Screen Name Redacted

8/31/2021 07:37 AM

Sidewalks are for safe walking. Not blocking pedestrians. I would file a lawsuit against the business and the city if anyone gets injured in this situation. This land belongs to the city, not the business community.

Screen Name Redacted

8/31/2021 05:45 PM

Properties like Griffens Claw where iglos in cold weather are within the fencing of the property are fine in cold weather..Those in parking lots or intersected by sidewalks should not be allowed unless health department restrictions reduce indoor seating.

Screen Name Redacted

8/31/2021 08:22 PM

I would be interested in studying the potential of a pedestrian-only street span to encourage shopping and outdoor dining.  
<https://www.afar.com/magazine/the-10-best-pedestrian-streets-around-the-world>

Screen Name Redacted

9/06/2021 06:06 PM

I'm not really interested in cold weather 'outdoor' dining. It's great to dine outside in town in the summer but the enclosures are so big and still cold inside I'd rather get a carry out. Time to move on from last winter's restrictions about indoor dining. Maybe extend until after Christmas for a few restaurants but I'd rather not see them or eat in the tents, etc.

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**Optional question** (202 response(s), 149 skipped)

**Question type:** Essay Question



## Help Protect 435,500 Michigan Jobs By Investing in Michigan's Restaurant and Bar Community

*Future of Michigan's 16,543 restaurants and bars locations depend on refilling the Restaurant Revitalization Fund*

*Leisure and Hospitality Industry Has Accounted for 29.0% of All Jobs Lost in Michigan*

*Independent Restaurants and Bars Eligible for At Least \$168 Billion in Relief; Only \$28.6 Billion Appropriated to Date*

### **Independent restaurants and bars accumulated 16 months of losses and need relief to pay down their debts. They will not be “back to normal” anytime soon.**

- **The COVID-19 pandemic has cost restaurants and bars over \$280 billion in sales.**<sup>1</sup>
- **One point of sale system estimates that restaurants and bars are eligible for at least \$168 billion in RRF grants.**
- **Costs necessary for running a restaurant are rising.** The price of beef and veal (41.4%), grains (93.8%), and shortening and cooking oil (34.8%) have surged over the past year.<sup>2</sup>
- **36% of diners will not resume their regular dining behavior until at least after September 2021.**<sup>3</sup> Consumer hesitancy will continue to hamper restaurants' and bars' revenue generating abilities.
- After accumulating 16 months of debt, restaurants and bars cannot simply fix their balance sheets with a few weeks of near-capacity business operations afforded by loosened restrictions and summer outdoor dining. **Approximately 90,000 restaurants and bars have closed during the pandemic.**<sup>4</sup>

### **Investing in restaurants and bars protects Michigan's \$17.9 Billion industry**<sup>5</sup>

- The RRF would galvanize Michigan's tourism industry, encouraging travelers to eat in Michigan's establishments and spend money on lodging, other tourist attractions and retail.
- Refilling the RRF would support Michigan's vast restaurant supply chain, protecting the state's bakers, fisherman butchers and 41,550 small farms.<sup>6</sup>
- Since the beginning of March 2020, the **leisure and hospitality industry has accounted for 29.0% of all jobs lost in Michigan**; keeping many of Michigan's 435,500 leisure and hospitality workers employed would save the state millions in unemployment benefits and insurance taxes.<sup>7</sup>

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<sup>1</sup> [US Census](#).

<sup>2</sup> [Bureau of Labor Statistics, Producer Price Index](#), June 2021.

<sup>3</sup> [OpenTable Diner Q1 Insights](#).

<sup>4</sup> [National Restaurant Association](#).

<sup>5</sup> [National Restaurant Association](#), Michigan at a Glance.

<sup>6</sup> [Independent Restaurants are a Nexus of Small Business in the United States and Drive Billions of Dollars of Economic Activity that is at risk of Being lost Due to the COVID-19 Pandemic](#), 11.

<sup>7</sup> [Bureau of Labor Statistics](#), Michigan at a glance.



### **Refilling the RRF is a long term plan to return to full employment and growth.**

- **Restaurant and bar employment is down 1.2 million from its pre-pandemic levels, stopping a decade of rapid job growth:** employment for restaurants and bars increased over 33% in the last decade. The third fastest growth of any industry.<sup>8</sup> Restaurants and bars account for one in five jobs lost during the pandemic.<sup>9</sup>
- **Until the pandemic, restaurants added middle class jobs at a rate over three times faster than the rest of the economy.**<sup>10</sup>
- 60% of all chefs are minorities. Restaurants also employ more minority employee-managers than any other industry.<sup>11</sup> **Failing to provide support for this beleaguered industry will cause an employment crisis disproportionately affecting women, people of color, immigrants, young people, the formerly incarcerated and single mothers.**
- Restaurants are uniquely hurting – providing relief to America’s restaurants and bars will allow these businesses to pay down debt and keep their doors open, protecting the 11 million workers they employ nationwide and the more than 5 million others who work in the industry's vast supply chain.

### **The Restaurant Revitalization Fund provides restaurants and bars with the grant relief they need to keep their doors open.**

- The RRF is modeled after the \$120 billion RESTAURANTS Act, which independent restaurant and bar operators from the IRC specifically designed so their industry could access the relief they need.
- The RRF provides debt-free support in the amount of annual revenue lost from 2019 and 2020, with special provisions for businesses that opened in 2020 and 2019. Grants can only be used on eligible expenses: payroll, rent, mortgage, maintenance, outdoor seating constructions, supplies, protective equipment, food, beverage, operational expenses, and principal business payments for business debt.
- The RRF has a track record of success: within the first three weeks of opening the application portal, over 372,000 restaurants, bars, and other eligible businesses have applied, requesting over \$76 billion in funds.<sup>12</sup>
- Businesses unable to access other federal relief programs, like PPP, applied in droves: over half of applicants came from women (over 122,000 applications), Veterans (over 14,000 applications), and socially and economically disadvantaged businesses (over 71,000 applications).<sup>13</sup>
- This relief fund allows struggling small businesses a chance to survive the pandemic and caters to vulnerable businesses: grants cannot exceed \$10,000,000 per restaurant group (which cannot have more than 20 entities) and \$5,000,000 per business.

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<sup>8</sup> [Bureau of Labor Statistics, B - Tables, Food Service and Drinking Places; Independent Restaurants are a Nexus of Small Business in the United States and Drive Billions of Dollars of Economic Activity that is at risk of Being lost Due to the COVID-19 Pandemic](#), 18.

<sup>9</sup> [Bureau of Labor Statistics, B - Tables](#).

<sup>10</sup> [National Restaurant Association](#).

<sup>11</sup> [Independent Restaurants are a Nexus of Small Business in the United States and Drive Billions of Dollars of Economic Activity that is at risk of Being lost Due to the COVID-19 Pandemic](#), 9; *ibid*.

<sup>12</sup> [House Small Business Committee](#), An Examination of the SBA's COVID-19 Programs, Isabella Casillas Guzman.

<sup>13</sup> [Small Business Administration](#), please note this data came from May 18, when 303,000 applications had been submitted. While the administrator disclosed an updated application amount during a May 26 House Small Business Committee Testimony, the SBA has not released a more specific breakdown.

NATIONAL  
RESTAURANT  
ASSOCIATION



RESTAURANT INDUSTRY

2025

ACTIONABLE INSIGHTS FOR THE FUTURE

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## ABOUT THIS REPORT

This report was prepared by the National Restaurant Association Research and Knowledge Group.

*Hudson Riehle*, Senior Vice President, Research and Knowledge Group

*Bruce Grindy*, Chief Economist and Vice President, Research

*Denise Roach, Beth Lorenzini*, Editors

*Daniela Smith*, Brand and Creative Director

In partnership with



The National Restaurant Association would like to thank our partners American Express and Nestlé Professional for their support for the Restaurant Industry 2030 report.

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Nestlé Professional is dedicated to being an inspiring growth partner that delivers creative, branded food and beverage solutions, enabling foodservice operators to delight their consumers. From Minor's®, Stouffer's®, Chef-Mate® and Trio® on-trend culinary items to innovative beverage systems under Nescafé® and Coffee-Mate® brands, Nestlé Professional meets the needs of foodservice operators while satisfying the tastes of the out-of-home consumer. Nestlé Professional is part of Nestlé S.A. in Vevey, Switzerland—the world's largest food company—with sales of over \$98 billion. For foodservice product news and information, visit [www.nestleprofessional.com](http://www.nestleprofessional.com).

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2055 L Street NW, Suite 700  
Washington, DC 20036  
(800) 424-5156  
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## INTRODUCTION:

# LOOKING TO THE FUTURE

**RESTAURANTS  
HAVE BECOME A  
NOW INDUSTRY.**  
The only constant as  
we look toward 2030  
will be the speed  
of change and the  
hyper-competition  
the restaurant and  
foodservice industry  
will face.

Succeeding in the restaurant industry will always be about great food and great service. In 2030, however, it's going to be about technology and data, too. For a long time now, restaurants have known that they need to get more innovative ... and fast. Technology and data allow for quicker consumer response, and restaurants will need to be nimble. Restaurants will need to embrace new ways of using data and information to keep up — or get left behind.

Ordinary won't cut it in 2030. What constitutes a restaurant is rapidly changing. The off-premises market — carryout, delivery, drive-thru and mobile units — is where the majority of industry growth is going to come from over the next 10 years. But the only reason that growth can occur is that the technology is now in place to support it. Data-driven decisions will expand beyond sales and staffing applications to guest services, supply-chain logistics, and menu development, allowing restaurants to

adapt what to sell in real time as demand dictates.

The other side of the off-premises coin is on-premises, which won't diminish but will likely change. The natural privacy that accompanies dining off-site could lead to an even more heightened demand for restaurants as community hubs delivering myriad new and shared social experiences.

When the National Restaurant Association began tracking industry sales in 1970, sales were \$40 billion. Sales in 2019 are expected to reach \$863 billion and by 2030, the Association projects the industry's sales will top \$1.2 trillion. The industry's workforce, now 15.3 million, is likely to exceed 17 million by 2030.

We are at a crossroads in how people dine. Restaurants are swiftly adapting both the front- and back-of-the-house to meet the needs of guests — serving them wherever they want to be served. As the industry approaches its next decade, this report uncovers what may be around the corner.

## WHAT'S INSIDE:

- **2030 Landscape**

A look at where the economy, workforce and consumer demographics are headed in 2030.

- **2030 Pulse Check**

Industry experts weigh in on the most and least likely developments by 2030.

- **2030 Disruptors**

Some possible outliers and disruptors, driven by factors outside the restaurant industry.



**SURE THINGS IN**

## AS RESTAURANTS SHIFT AWAY FROM THE TRADITIONAL, OPERATORS MUST BE NIMBLE.

The world is changing fast, and business leaders will have to adapt with speed and agility. Constant innovation and speed-to-market will help restaurants thrive as they serve guests where and when they want to be served.

**1. The definition of “restaurant” will change.** The digital world and evolving consumer preferences are resulting in an array of restaurant models aimed at giving customers what they want, when and where they want it. Some restaurants will morph into a hybrid model, offering counter service, full service, takeout and delivery, and meal kits. The delivery-only restaurant is on the rise through virtual restaurants and “ghost kitchens.” New food halls feature retail and restaurant pairings to make it easy for people both to eat and to shop for food they can take home.

**2. Off-premises opportunities will drive industry growth.** The increasing demand for off-premises meals is transforming the restaurant industry and operators will need to find ways to tap into this new revenue channel. Delivery orders are booming, and business models are shifting fast to find ways to serve that customer base. The shift affects everything from restaurant design to marketing, tech investment, operations, and site selection.

**3. Margin pressures will continue.** Labor costs, real-estate costs, and increasing investments in delivery and technology will continue to put pressure on the restaurant P&L. There will be a strong motivation to automate routine back-of-house tasks in restaurant kitchens and bars, as well as escalate the use of kiosks and digital ordering.

**4. Data is king.** Restaurants will see new opportunities to apply data analytics to predict and capitalize on consumer demand and optimize supply economics.

**5. Restaurants will serve — and employ — a different demographic.** The U.S. population and labor force will be the most diverse it’s ever been, and the workforce will include more older Americans. Restaurant operators will need to accommodate both the dining preferences and work styles of an increasingly diverse American public.

**6. Recruitment, retention and training will remain top priorities.** The skills and talent restaurants seek in their workforce will evolve to support a new technology ecosystem. Restaurants will compete with other industries for tech talent. Benefits will be critical to recruiting and retaining employees. Technology-based training, certifications, and internal career paths will be increasingly important tools to retain valuable employees.

**7. Technology will drive tremendous advances in food safety, food sourcing, and sustainability.** As the supply chain grows increasingly complex, operators will leverage blockchain and other new traceability technologies, ingredient and sourcing data, automated food safety management systems, and advances in utility and waste management to become more efficient, transparent organizations.


**8. Government will be a greater factor in everything operators do.** In addition to the federal government, state and local governments may continue to add to the legislation, taxation and regulation affecting restaurant operators.

**9. Sustainability isn’t just a buzzword.** It’s an important way to drive costs down as well as showcase the industry’s efforts to attract and serve the growing number of guests who are interested in everything about sustainability — from restaurant packaging to food sourcing.

**10. Restaurants will continue to bring people together.** Hospitality, excellence in service, and engagement in local communities will remain the hallmark of the restaurant industry. That strong commitment to guests and consumers of every type will be core to the industry’s identity in 2030 as operators innovate and thrive in an age of increasing technology.

# 2030

## BY THE NUMBERS




**1.2 MILLION**  
fewer 16- to 24-year-olds in the labor force by 2028.



**0.5%**  
Anticipated U.S. average annual labor force growth, 2018 to 2028.



RESTAURANT INDUSTRY PROJECTED SALES IN 2030:  
**\$1.2 TRILLION**



RESTAURANT & FOODSERVICE JOBS IN 2030:  
**17.2 MILLION**



**6.1 MILLION**

Number of additional adults 65 and older who are expected to be in the labor force by 2028.



**74.8 MILLION**

Projected Hispanic-American population in the U.S. in 2030.



**3%**

Teens as an expected share of the U.S. labor force in 2028.



# 2030: THE LANDSCAPE

**GROWTH IN THE RESTAURANT INDUSTRY FOR THE PAST SEVERAL DECADES HAS BEEN DRIVEN BY CONSUMERS' DESIRE FOR CONVENIENCE, SOCIALIZATION, AND HIGH-QUALITY FOOD AND SERVICE.**

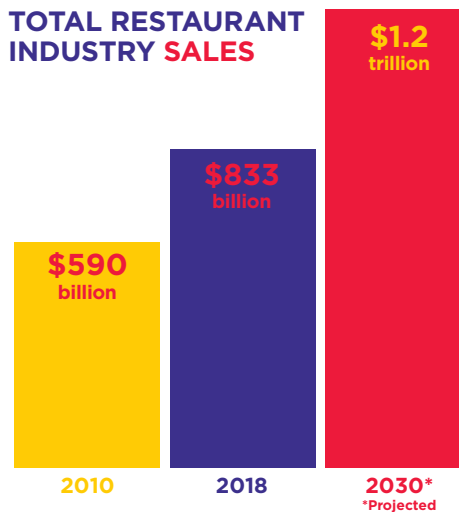
These same drivers will be the catalysts for expansion well into the future, as the restaurant industry continues to innovate and adapt to the ever-changing tastes and preferences of consumers.

By 2030, the National Restaurant Association expects total restaurant industry sales to top **\$1.2 trillion**, and provide employment opportunities for **more than 17 million** individuals.

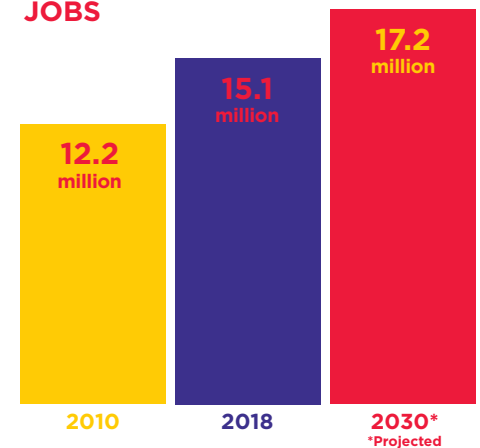
This section looks at some key drivers for the industry's success over the next decade, including the U.S. economic outlook, workforce changes, and the continued evolution of the American consumer.

## RESTAURANT INDUSTRY SNAPSHOT IN 2030

**TOTAL RESTAURANT INDUSTRY SALES**



**TOTAL RESTAURANT AND FOODSERVICE JOBS**







2030: THE LANDSCAPE

# ECONOMIC ROADMAP TO 2030

## AT A GLANCE

The U.S. economy is expected to expand at a more moderate pace over the next decade, due in large part to slower growth of the population and labor force. Trends won't be uniform across the country. Opportunities for restaurant industry expansion will likely be much more significant in areas with faster-growing economies.



### WHERE WE ARE NOW

As of September 2019, the U.S. economy had added jobs in 108 consecutive months, making for the longest uninterrupted streak of job growth on record, with the addition of more than 21 million jobs. But even with these steady gains, the economy during that time posted job growth of more than 2% in just one year: 2015. As a result, the decade that began in 2010 is on pace to be the second-weakest for job growth since the 1930s, in percentage terms. The projected 1.7% average annual employment growth between 2010 and 2020 would outpace only the 2000 to 2010 period — a decade that included two recessions.



### WHERE WE'RE HEADED

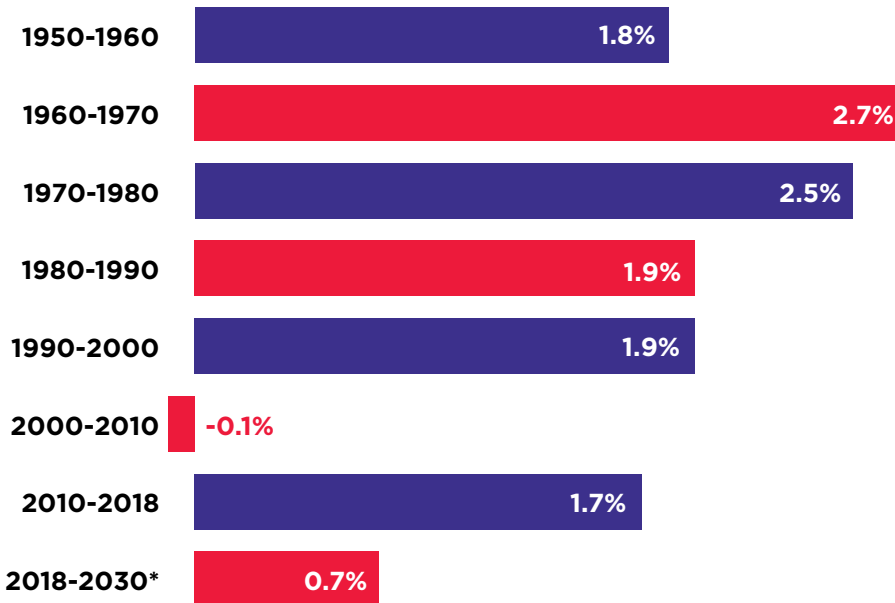
Employment growth is projected to slow even further over the next decade. The National Restaurant Association expects total U.S. employment to increase at a 0.7% average annual rate between 2018 and 2030. The 2018 to 2030 period is likely to feature stretches of stronger growth, as well as at least one recession.

**JOB GROWTH IS PROJECTED TO BE MODEST DURING THE NEXT DECADE**

#### AVERAGE ANNUAL GROWTH IN TOTAL U.S. EMPLOYMENT

Job growth is expected to average 0.7% a year from 2018 to 2030.

*Source: Bureau of Labor Statistics, National Restaurant Association projections*





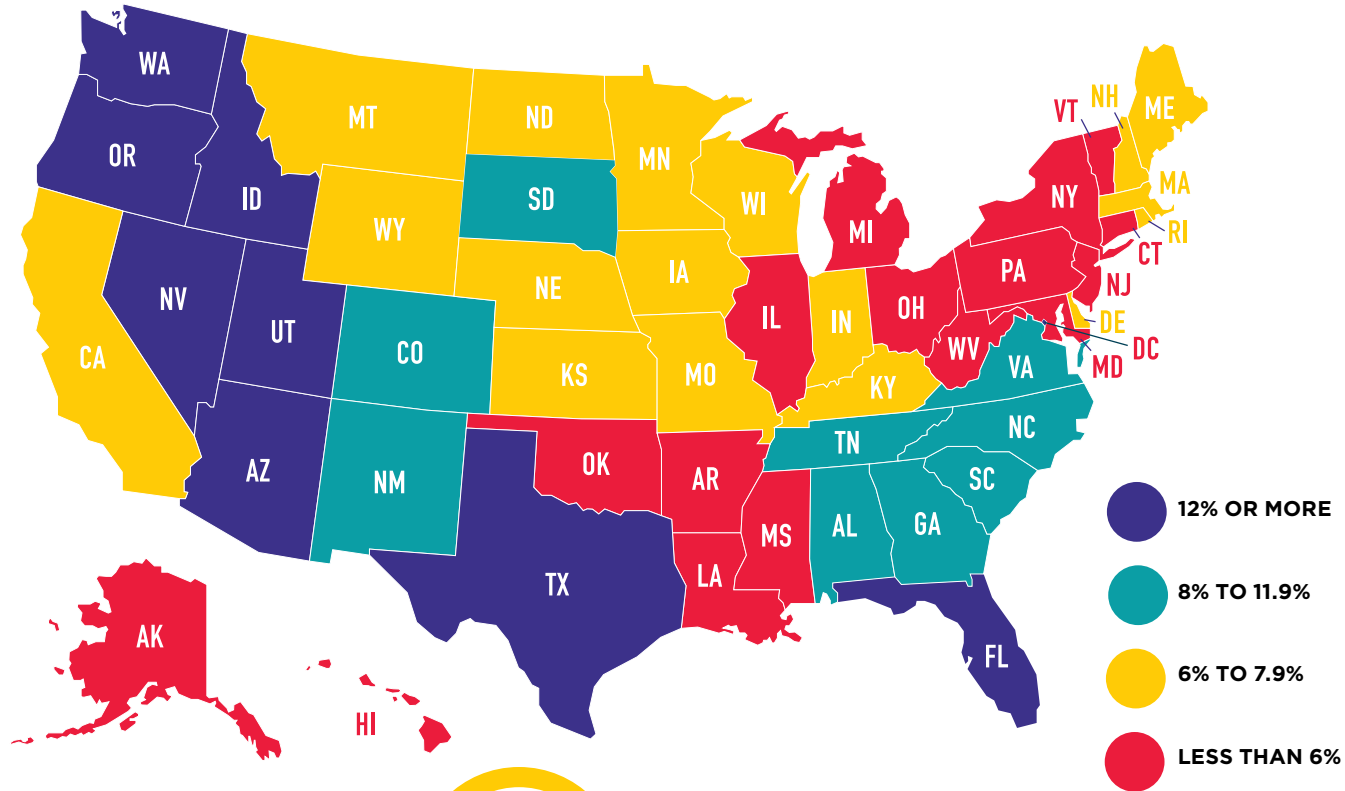
# 2030: THE LANDSCAPE ECONOMIC ROADMAP TO 2030

## MAPPING THE STATE JOB MARKET

### PROJECTED GROWTH IN TOTAL STATE EMPLOYMENT, 2018 TO 2030

Southern and western states are expected to post the strongest job growth.

Source: National Restaurant Association projections



**U.S. TOTAL:  
8.5%  
JOB GROWTH**



## MAKE A NOTE ...

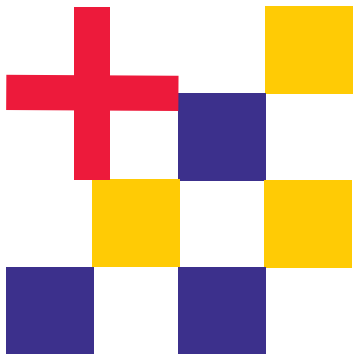
### Job growth will be highest in the South and West.

The National Restaurant Association is projecting job growth of 8.5% for the U.S. overall between 2018 and 2030, but some states — particularly in the southern and western regions — will see higher growth.

### Texas and Nevada are expected to lead the way.

Both states are expected to expand their workforces by more than 17% between 2018 and 2030, according to National Restaurant Association projections. Arizona, Oregon, Utah, Florida, Idaho and Washington are also expected to register job growth well above the national average during the next decade.





2030: THE LANDSCAPE

# THE WORKFORCE IN 2030

## AT A GLANCE

**Growth in the U.S. labor force is projected to slow over the next decade**, which would make the upcoming decade the fifth consecutive decade of decelerating growth. Trends in labor force participation will vary by age group. Older adults are expected to register the largest inflows to the labor force over the next decade. While older adult workers should become more prevalent, the number of teenage workers will likely dwindle and by 2028, their numbers are expected to decline to their lowest level in 65 years.



### WHERE WE ARE NOW

U.S. job growth has been somewhat tempered during the recent economic expansion. One reason for this is the relatively slow growth in the U.S. labor force. The total U.S. civilian labor force increased at an average annual rate of 0.6% between 2010 and 2018, according to data from the Bureau of Labor Statistics. If this trend continues, the current decade will be the slowest decade of labor force expansion on record.



### WHERE WE'RE HEADED

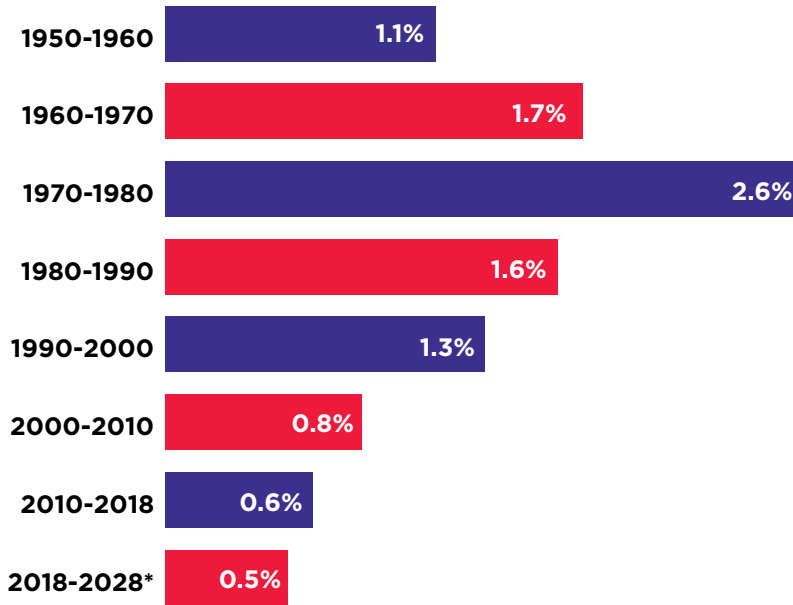
Labor force growth is expected to remain modest. The U.S. civilian labor force will grow at an average annual rate of just 0.5% between 2018 and 2028, according to BLS projections. Slower population growth and changing demographics are largely responsible for the dampened labor force growth.

### PUTTING ON THE BRAKES

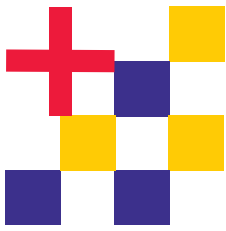
#### AVERAGE ANNUAL GROWTH IN THE TOTAL U.S. CIVILIAN LABOR FORCE

Labor-force growth is expected to average 0.5% a year over the next decade.

*Source: Bureau of Labor Statistics, National Restaurant Association*



\* Projected



# 2030: THE LANDSCAPE THE WORKFORCE IN 2030

## CHARTING A NEW COURSE WITH AN OLDER WORKFORCE



### WHERE WE ARE NOW

There were 9.7 million teenagers in the U.S. labor force in 1978, which is the highest number ever recorded. At that time, there were 3.1 million adults age 65 and older in the labor force. The dynamics shifted over the next three decades. Teen representation in the labor force slumped, while more older adults remained in the workforce beyond the typical retirement age. By 2008, the U.S. labor force included 6.9 million teenagers and 6.2 million adults age 65 and older. That was the last year teenagers outnumbered their older counterparts in the labor force. The divergent trends accelerated during the next decade, and by 2018 older adults outnumbered teenagers by more than 4 million.



### WHERE WE'RE HEADED

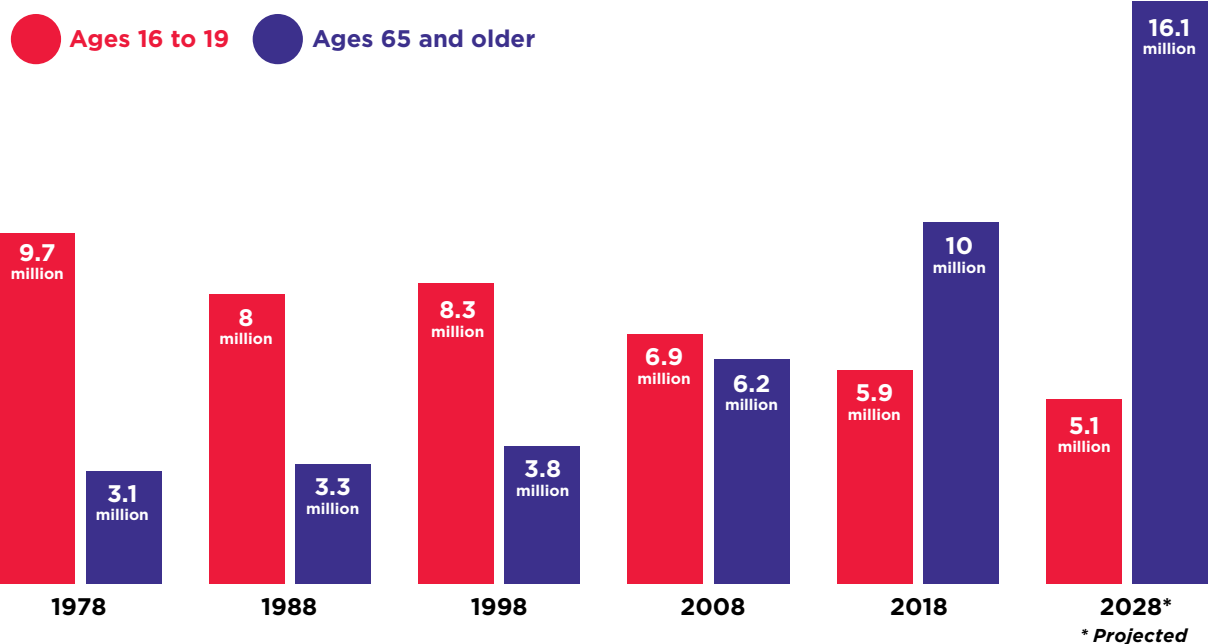
The Bureau of Labor Statistics expects this trend to continue over the next decade. By 2028, there are projected to be 16.1 million adults age 65 and older in the labor force — a record high. In contrast, BLS expects there to be only 5.1 million teenagers in the labor force in 2028, which would be the fewest number of teenagers in the labor force since 1963.

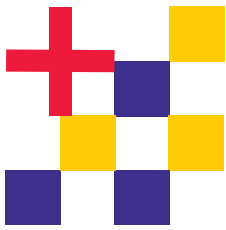
**MORE OLDER WORKERS,  
FEWER YOUNGER WORKERS**

NUMBER OF PEOPLE IN THE LABOR FORCE:  
TEENAGERS AND ADULTS AGE 65 AND OLDER

By 2028, workers age 65 and older will outnumber teenage workers by 11 million.

*Source: Bureau of Labor Statistics, National Restaurant Association*





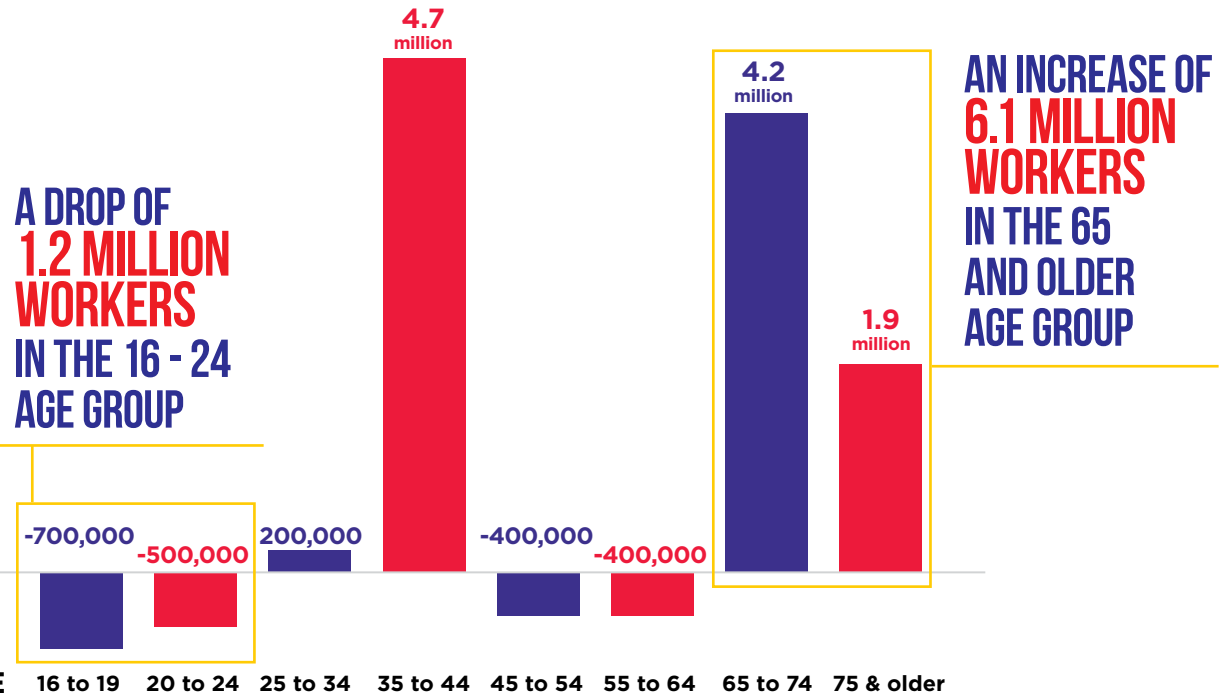
2030: THE LANDSCAPE  
**THE WORKFORCE  
 IN 2030**

**OLDER ADULTS ARE A GROWING  
 PROPORTION OF THE LABOR FORCE**

**PROJECTED CHANGE IN THE U.S. LABOR  
 FORCE BY AGE, 2018 TO 2028**

The number of 16- to 24-year-olds in the labor force is expected to drop by 1.2 million by 2028.

*Source: Bureau of Labor Statistics, National Restaurant Association*



**MAKE A NOTE ...**

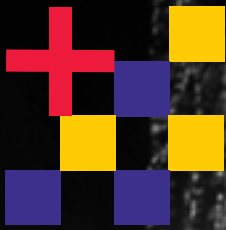


**Older Americans will increase their presence in the workforce.**

The number of 65- to 74-year-olds in the labor force is projected to rise by 4.2 million during the next decade, and the number of workers age 75 and older is expected to increase by 1.9 million.

**The number of working teens and young adults will shrink.**

This will be particularly important for restaurants. Nearly 40% of today's restaurant workforce is made up of 16- to 24-year-olds, much higher than this group's 12% representation in the U.S. workforce overall. The number of 16- to 24-year-olds in the labor force is expected to drop by 1.2 million by 2028, according to BLS projections.



2030: THE LANDSCAPE

# THE WORKFORCE IN 2030

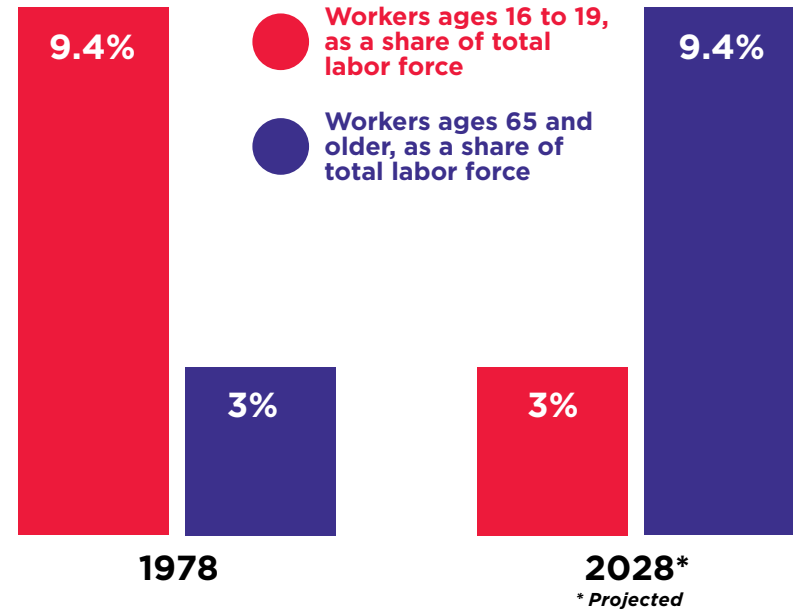


## SHARP TURN COMING UP

### SHARE OF THE U.S. LABOR FORCE: TEENAGERS VS. ADULTS AGE 65 AND OLDER

What a difference a half-century makes: Teens made up 9.4% of the total U.S. labor force in 1978, and adults 65 and older made up 3%. Fast forward 50 years, and the numbers are expected to flip: According to BLS projections, adults 65 and older are expected to represent 9.4% of the labor force in 2028; teens are expected to make up only 3%.

*Source: Bureau of Labor Statistics, National Restaurant Association*





# 2030: THE LANDSCAPE CONSUMERS IN 2030

## AT A GLANCE

Population growth is a key driver of restaurant industry expansion. Any slowdown in U.S. population growth has a far-reaching impact on restaurants because it effectively constrains expansion in the economy, the workforce and the industry's customer base. **Population growth is projected to remain modest in the next decade**, and the U.S. population is expected to become older and more diverse.



### WHERE WE ARE NOW

Population growth in the U.S. slowed in recent years. Total U.S. population increased at an average annual rate of 0.7% between 2010 and 2018, according to the U.S. Census Bureau. If the trend continues, the decade that began in 2010 will represent the slowest population growth since the 1940s.



### WHERE WE'RE HEADED

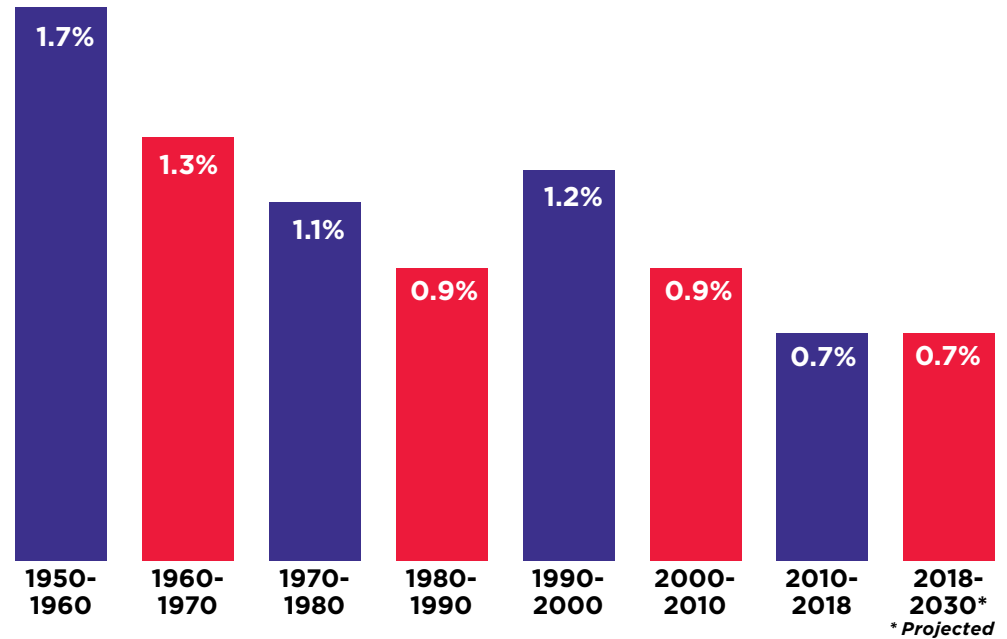
The U.S. population is expected to continue growing at a modest pace. **Total U.S. population will grow at an average annual rate of 0.7%** between 2018 and 2030, according to projections by the U.S. Census Bureau.

## U.S. POPULATION GROWTH IS EXPECTED TO REMAIN MODEST

### AVERAGE ANNUAL GROWTH IN TOTAL U.S. RESIDENT POPULATION

The U.S. population is expected to grow at an average annual rate of 0.7% between 2018 and 2030.

*Source: U.S. Census Bureau, National Restaurant Association*







## SNAPSHOT OF THE U.S. POPULATION IN 2030

### WE'LL BE OLDER ...

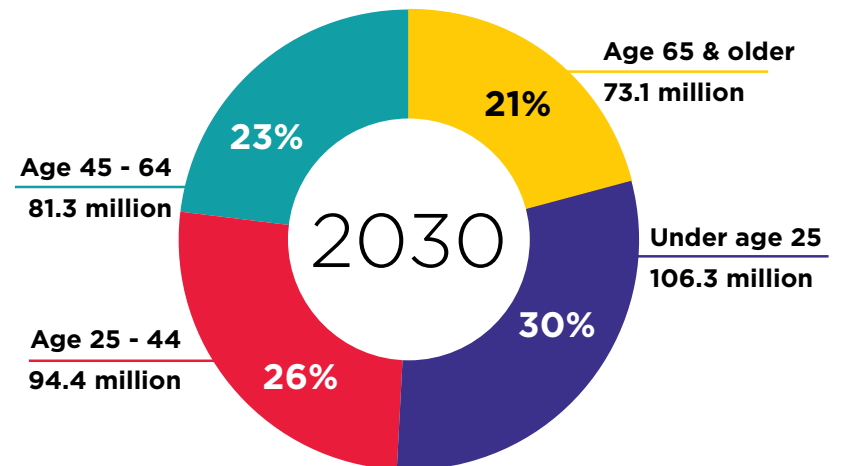
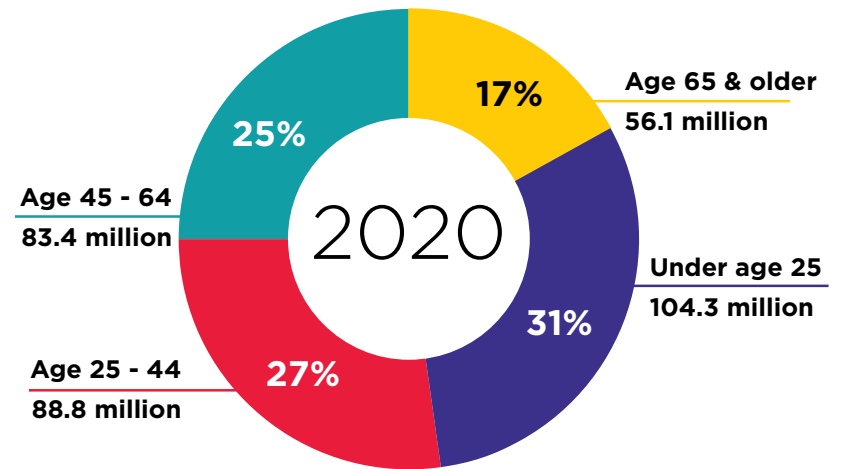
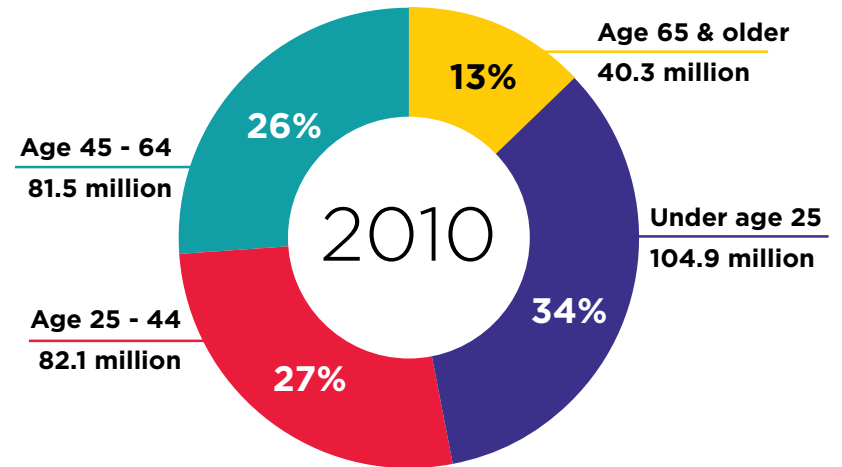
Older adults are expected to make up a larger proportion of the U.S. population over the next decade. According to projections from the U.S. Census Bureau, **there will be 73.1 million adults age 65 and older in the U.S. in 2030, comprising 21% of the total population.** This age group represented just 13% of the population in 2010, at 40.3 million people.

### OLDER ADULTS CLAIM BIGGER SLICE OF THE PIE

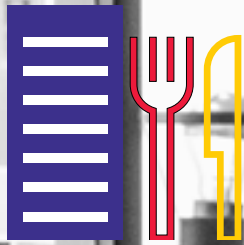
#### DISTRIBUTION OF U.S. POPULATION BY AGE GROUP, 2010 TO 2030

Americans age 65+ are expected to make up 21% of the U.S. population by 2030.

*Source: U.S. Census Bureau, National Restaurant Association*







2030: THE LANDSCAPE  
**CONSUMERS  
IN 2030**

**... AND MORE DIVERSE**

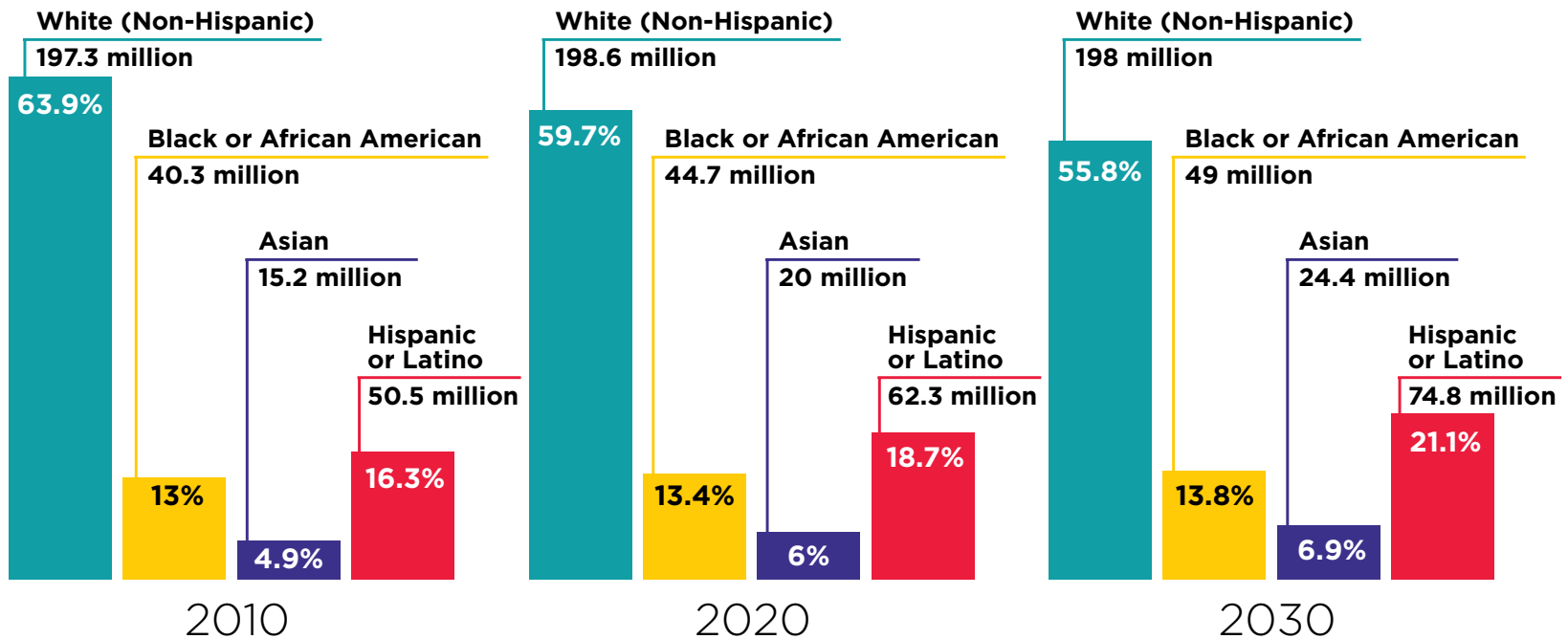
The Census Bureau projects that the **number of Hispanic-Americans will increase to 74.8 million by 2030, accounting for 21% of the U.S. population.** Asian and black or African-American residents are also expected to increase their share in the U.S. population.

**DIVERSITY ON THE MENU FOR 2030**

**DISTRIBUTION OF U.S. POPULATION BY RACE AND ETHNICITY, 2010 TO 2030**

Hispanics are expected to represent 21% of the U.S. population by 2030.

*Source: U.S. Census Bureau, National Restaurant Association*





# 2030: PULSE CHECK

## THE NATIONAL RESTAURANT ASSOCIATION CONSULTED INDUSTRY EXPERTS TO GET THEIR TAKE ON THE MOST AND LEAST LIKELY DEVELOPMENTS FOR THE RESTAURANT INDUSTRY BY 2030, IN ABOUT A DOZEN CATEGORIES.

We used a Delphi approach for this part of our Restaurant Industry 2030 report, relying on a panel of industry thought leaders to identify issues and rank them in order of likelihood. This research method, originated by the Rand Corporation in the 1960s, has been found to work well when a topic lends itself more to subjective judgments than precise analytical techniques. (See “Delphi Methodology” in appendix for details.)

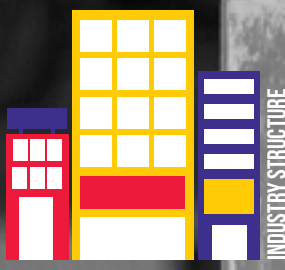
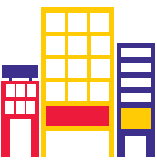
### THE DELPHI PANEL'S PREDICTIONS FOR 2030

Industry experts were asked about the issues, events and developments that will shape the restaurant industry in the year 2030. Panelists rated 180 statements on a scale from +3 to -3, from “very likely to occur” to “very unlikely to occur.” According to the panelists, these are the 25 most likely developments for 2030. A full ranking is available in the appendix.

# 25

## MOST LIKELY DEVELOPMENTS BY 2030

1. Competition for customers will intensify.
2. It will be commonplace for restaurants to accept mobile payments.
3. Handheld payment terminals that allow for pay-at-the-table will be commonplace.
4. The vast majority of takeout and delivery orders will be placed digitally.
5. Packaging designed exclusively for delivery and carryout will be more sophisticated and effective.
6. Regardless of the nutritional content of the food, consumers will still want comfort foods.
7. Convenience stores and grocery stores will expand their foodservice offerings.
8. More restaurant layouts will include areas dedicated to delivery and carryout.
9. State and local governments will increase restaurant industry regulation.
10. Total employee compensation costs will increase as a percent of sales.
11. More training will be provided online and on smartphones.
12. The restaurant industry will continue to be a breeding ground for entrepreneurialism.
13. Equipment used in restaurants will be more energy-efficient.
14. The use of kiosks in limited-service restaurants will be commonplace.
15. There will be increased regulation around third-party delivery.
16. More employees will be certified in safe food handling through ServSafe products.
17. Video menu boards in limited-service restaurants will be commonplace.
18. More restaurants will be designed to reduce use of energy and water and minimize waste.
19. Turning point-of-sale (POS) data into actionable knowledge for operators will become easier.
20. Restaurant operators will be more likely to implement more local, targeted and customized promotions.
21. Technology will be more effectively used to control costs and enhance management efficiency.
22. Women will hold a larger proportion of upper management jobs in the restaurant industry.
23. Restaurants will offer more healthy options on their menus.
24. Restaurant inspection results will be readily available to the public.
25. The federal government will enact more data-privacy rules to regulate how businesses handle customer data.



INDUSTRY STRUCTURE

Come In  
WE'RE  
OPEN

2030: PULSE CHECK

# INDUSTRY STRUCTURE



## MOST LIKELY DEVELOPMENTS BY 2030

- ✔ Competition for customers will intensify.
- ✔ Convenience stores and grocery stores will expand their foodservice offerings.
- ✔ The restaurant industry will continue to be a breeding ground for entrepreneurialism.
- ✔ There will be more delivery options in smaller markets.
- ✔ Virtual or “ghost” restaurants that only offer delivery will be more common.
- ✔ Off-premises traffic will post stronger growth than on-premises traffic.
- ✔ Consolidation in food manufacturing and distribution will intensify.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✔ Independent operators will be the primary innovators and new product developers.
- ✔ A larger number of American restaurant companies will expand internationally.

See appendix for full survey results.

## THE RESTAURANT INDUSTRY IN 2030 WILL BE LIKE NOTHING YOU HAVE EVER SEEN BEFORE ... AND THAT'S EXACTLY HOW OPERATORS WILL THRIVE.

At the same time, the industry will continue to be the industry of the American dream, where low barriers to entry offer entrepreneurial opportunities in every community.

Our Delphi panelists believe that competition will intensify, and that the restaurant industry of the future will be a hybrid model. Convenience will be a huge priority and consumers will appreciate all the options offered by restaurants ... but they won't always be eating at the restaurant. Dining away from the restaurant will grow in importance. This could mean takeout, delivery and perhaps styles that haven't developed yet. Third-party delivery firms, virtual restaurants, and other models will enable new formats to appeal to guests.

When guests dine in the restaurant, the experience may be as important as the meal. Restaurant entrepreneurs will focus on a premium customer experience, whether that's inside or outside the restaurant.

“ Off-premises traffic will post stronger growth than on-premises traffic. ”  
— Delphi panelist

2030

RESTAURANT INDUSTRY 2030 • NATIONAL RESTAURANT ASSOCIATION



## 2030: PULSE CHECK

# FACILITIES & OPERATIONS



## MOST LIKELY DEVELOPMENTS BY 2030

- ✔ Packaging designed exclusively for delivery and carryout will be more sophisticated and effective.
- ✔ More restaurant layouts will include areas dedicated to delivery and carryout.
- ✔ More restaurants will be designed to reduce use of energy and water and minimize waste.
- ✔ The typical restaurant footprint will be smaller.
- ✔ Computerized cooking equipment will become more common in restaurant kitchens.
- ✔ Restaurant space utilization will be more flexible.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✔ Restaurants will increase their hours of operation.
- ✔ Restaurants will include more retail space.

See appendix for full survey results.

## OFF-PREMISES IS WHERE MUCH OF THE FUTURE GROWTH WILL LIKELY BE.

That trend will accelerate thanks to technology and it will necessitate long-term changes in the design, flow and speed of service in restaurants.

The restaurant of the future will likely be smaller and more efficient. Smaller restaurants, as predicted by the Delphi panel, should mean more automated kitchen equipment and a change in how the typical kitchen lays out.

With delivery and takeout being key drivers of the industry's growth, the focus will be on preparing foods that travel safely with quality intact. Expect an intensified focus on delivery packaging and look for kitchen spaces configured for takeout and delivery.

The on-premises occasion is also predicted to change as well, with more self-service options and perhaps a heightened desire for dining "experiences" when and where customers gather.

“ Design will become more experiential. ”

— Delphi panelist

“

Restaurant physical spaces will be smaller, requiring less square footage due to the increase in delivery and takeout.

”

— Delphi panelist





Tighter margins are the new norm. How do we run even leaner? Simple, good menus are the future.



— Delphi panelist

## 2030: PULSE CHECK

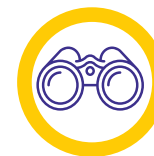
# PROFITABILITY & INCOME

## MARGIN PRESSURES WILL REMAIN INTENSE FOR RESTAURANTS OF ALL TYPES AND SIZES, MAKING COST MANAGEMENT MORE ESSENTIAL THAN EVER.

The restaurant of the future will see escalating expenses for employee compensation and real estate, our Delphi panel says. Tech costs are likely to become a standard line item on the restaurant P&L, as even smaller operators will access integrated data systems that increase their profitability.

Panelists were in strong agreement: Food and beverage costs as a percent of sales aren't likely to go down, and restaurant profit margins aren't likely to increase.

## MOST LIKELY DEVELOPMENTS BY 2030



- ✓ Total employee compensation costs will increase as a percent of sales.
- ✓ Real estate costs will escalate more rapidly as competition for prime sites increases.
- ✓ Smaller operators will have greater access to fully integrated software systems — from scheduling to ordering supplies to tracking sales/traffic metrics — which will increase their profitability.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✓ Restaurant profit margins will increase.
- ✓ Food and beverage costs will decrease as a percent of sales.
- ✓ Operations with lower-check-per-person averages will have higher profit margins than higher-check operations.

See appendix for full survey results.



FINANCING



“ I love crowdfunding and hope it expands. ESOPs [employee stock ownership plans] and employee ownership are also attractive. ”

— Delphi panelist



## 2030: PULSE CHECK

# FINANCING



### FINANCING MAY CONTINUE TO BE CHALLENGING FOR RESTAURANTS.

According to the Delphi panel, profit margins and stockholder demands will likely continue to deter the risk-averse, which means many in the restaurant industry will still turn to private investors in 2030 and beyond.

At the same time, panelists do not expect the restaurant industry overall to become more attractive to investors.

Panelists also do not see it getting any easier in 2030 for restaurants to access credit or for operators to find financing, including through local independent banks.

“ More predatory lending will leave owners high and dry. ”

— Delphi panelist



### MOST LIKELY DEVELOPMENTS BY 2030

- ✓ Private financing of restaurant operations will be more common than public financing.
- ✓ Meeting the demands of stockholders will force more public restaurant companies to go private.

### LEAST LIKELY DEVELOPMENTS BY 2030

- ✓ Accessing credit will become easier for restaurant operators.
- ✓ Local independent banks will be more willing to finance restaurants.
- ✓ More funding will come from tax incentives offered to small businesses for job creation.
- ✓ The restaurant industry will be more attractive to investors.
- ✓ Suppliers will be more likely to invest in new restaurants and concepts.

See appendix for full survey results.

“

POS systems will need to become even more sophisticated, but training will be imperative. It is shocking how few of the functions restaurateurs learn how to use.”

— Delphi panelist

## 2030: PULSE CHECK

## TECHNOLOGY &amp; DATA

## TECHNOLOGY AND DATA ARE GOING TO PLAY THE BIGGEST ROLE YET IN THIS FUTURE STATE OF THE INDUSTRY.

Most restaurants are already living it now. We're moving rapidly toward a restaurant industry that will fully adopt technology by 2030.

Guests of the future will demand technology. If you're not doing business through a phone or tablet — whether it's delivery, online ordering or even your tableside POS — you could find your business struggling, our panel suggests. Today's customers are interacting with restaurants digitally — to order takeout and delivery, pay, rate the experience, provide preferences in advance — and they expect the restaurant industry to keep up.

Technology will automate traditional tasks. Everything from inventory management to scheduling, payroll, taxes, and bill reconciliation will be more automated in the restaurant of the future. This means more need for tech support, cybersecurity, and restaurant managers and staff who are tech-savvy.

Innovation in many areas will drive productivity. Big data will have applications for restaurants of all sizes, and the Internet of Things (IoT) will allow data to be collected in even more ways. Making data-driven decisions will expand into every area of the operation — although panelists do not see it as highly likely that customers will embrace data collection.



## MOST LIKELY DEVELOPMENTS BY 2030

- ✓ It will be commonplace for restaurants to accept mobile payments.
- ✓ Handheld payment terminals that allow for pay-at-the-table will be commonplace.
- ✓ The vast majority of takeout and delivery orders will be placed digitally.
- ✓ The use of kiosks in limited-service restaurants will be commonplace.
- ✓ Video menu boards in limited-service restaurants will be commonplace.
- ✓ Turning point-of-sale (POS) data into actionable knowledge for operators will become easier.
- ✓ Technology will be more effectively used to control costs and enhance management efficiency.

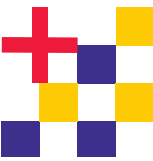
## LEAST LIKELY DEVELOPMENTS BY 2030

- ✓ Customers will embrace data collection in their everyday restaurant experiences, with their permission.
- ✓ Drones, self-driving vehicles and robots will play a larger role in delivery.

See appendix for full survey results.



# 2030: PULSE CHECK WORKFORCE



## RESTAURANTS ALREADY EMPLOY MORE WOMEN AND MINORITY MANAGERS THAN ANY OTHER PRIVATE-SECTOR INDUSTRY.

Our Delphi panel expects that to become even more so by 2030. The restaurant industry of the future will continue to grow its ranks of women and minority leaders as it remains one of America's most diverse sectors.

The Delphi panel agrees that there will be continued competition for employees in the restaurant industry, and that the average number of employees per restaurant is likely to decline. Employers are likely to use compensation and benefits to attract new talent. Technology skills will be needed to ensure the staff is able to deal with automation and robotics, data analytics and more. Yet even with enhanced use of technology to drive productivity, panelists expect the industry to remain very labor-intensive.

With demographic trends pointing to continued dips in the number of working teens, panelists predicted an increase in the restaurant industry's reliance on older workers.

“ Culture is the only way to keep staff. ”

— Delphi panelist



## MOST LIKELY DEVELOPMENTS BY 2030

- ✔ Women will hold a larger proportion of upper management jobs in the restaurant industry.
- ✔ Minorities will hold a larger proportion of upper management jobs in the restaurant industry.
- ✔ The average number of employees per restaurant location will decline.
- ✔ The restaurant industry workforce will become more diverse.
- ✔ The restaurant industry will remain very labor-intensive despite technological developments.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✔ The average tenure in the industry for a typical employee will increase.
- ✔ Younger workers will make up a larger proportion of the restaurant workforce.

See appendix for full survey results.

“ To reach its 2030 potential, the restaurant industry needs to enhance its status as a good career choice. ”

— Delphi panelist



2030: PULSE CHECK

# TRAINING & DEVELOPMENT



“ More developed career paths will create more lifetime employees in the industry. ”  
 — Delphi panelist

**THE FUNDAMENTALS WILL ALWAYS BE ESSENTIAL WHEN IT COMES TO TRAINING IN THE RESTAURANT INDUSTRY: HOSPITALITY, MANAGING RISK, AND OPERATING EFFICIENTLY.**

Here's one thing that will be different about the restaurant of the future and training: Technology will be a skillset that requires training — and technology will also be the way restaurants train. Online and smartphone training will be common. And even as more tasks are automated or done digitally, restaurants will become more career-focused, the Delphi panelists said. Restaurants will increase their focus on internal career-pathing to retain employees and work more closely with schools and universities to recruit employees.



## MOST LIKELY DEVELOPMENTS BY 2030

- ✔ More training will be provided online and on smartphones.
- ✔ More employees will be certified in safe food handling through ServSafe products.
- ✔ Allergen training for employees will be mandatory.
- ✔ Independents will have greater access to professional training online.
- ✔ More restaurants will develop and promote internal career ladders to help retain employees.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✔ The typical restaurant employee will be more highly trained and educated.
- ✔ Video games designed for restaurant-employee training will be more popular.

See appendix for full survey results.

## 2030: PULSE CHECK

## MARKETING

SAY GOODBYE TO  
TRADITIONAL MARKETING.

Savvy operators have known for a while that social-media marketing connects well with consumers, but marketing will get more personal and localized in the restaurant of the future as the industry strives to deliver a customized experience at every touchpoint.

The Delphi panel believes that mastering personalization and targeted marketing will be the hallmarks of successful operations as we head toward 2030. That includes using technology to change menu offerings and prices depending on demand, and leveraging loyalty programs for online marketing.

The bottom line: Give consumers what they want when they want it ... even if it means you have to use facial recognition technology to figure it out.

“ We will see more apps, digital ads and geo-tracking of customers. ”

— Delphi panelist

“ Data budgets will likely surpass today’s marketing budgets for most restaurants. ”

— Delphi panelist

MOST LIKELY  
DEVELOPMENTS  
BY 2030

- ✓ Restaurant operators will be more likely to implement more local, targeted and customized promotions.
- ✓ Restaurants will be more likely to incorporate technology to allow menu offerings and prices to change depending on the time of day or day of the week.
- ✓ Frequent-diner databases and loyalty programs will be used more frequently for online advertising and promotion.
- ✓ Videos — both in-store and in digital marketing — will be used more frequently to market restaurants.
- ✓ Restaurants will be more susceptible to negative social media.

LEAST LIKELY  
DEVELOPMENTS  
BY 2030

- ✓ Discounting will be less common in restaurants.
- ✓ Customer loyalty at restaurants will decline.

See appendix for full survey results.



2030: PULSE CHECK

# FOOD SAFETY & SECURITY

## FOOD SAFETY WILL CONTINUE TO BE A MISSION-CRITICAL AREA FOR RESTAURANTS.

The growing interest in on-demand food is likely to up the game, to ensure no reputational risks as delivery and takeout foods increase.

Technology will be a game-changer in food safety, the Delphi panel says. As consumers increasingly expect transparency, restaurant inspection reports are likely to be publicly available. Food-safety certification and comprehensive food safety management systems will be critical components of enhancing food safety. Supply-chain technologies such as bar coding and blockchain will help create digital records of a product's journey from farm to table. The dramatic increase in data from across the supply chain will quickly identify the source of foodborne-illness outbreaks and remove potentially contaminated foods.

“More automation, robotics and AI should improve food safety and security.”

— Delphi panelist

## MOST LIKELY DEVELOPMENTS BY 2030

- ✔ Restaurant inspection results will be readily available to the public.
- ✔ A majority of cases shipped in the supply chain will be equipped with universal bar codes or transponders.
- ✔ More of the handling of food products in the supply chain will be done by machines, rather than people.
- ✔ More food safety certification for hourly and management employees will enhance restaurant food safety.
- ✔ Technologies such as blockchain will improve traceability in the restaurant supply chain.
- ✔ More restaurants will implement comprehensive food safety management systems.
- ✔ Food-chain security and “food defense” will receive greater attention to prevent intentional food contamination.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✔ The complexity of traceability will be an increased barrier to the local-foods movement.
- ✔ Restaurants will spend a larger proportion of their budget on food safety.

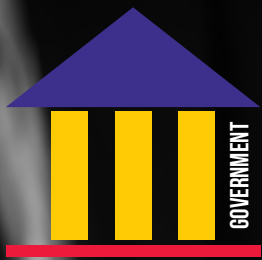
See appendix for full survey results.

“

Food safety knowledge will increase as consumers become more educated.

”

— Delphi panelist



2030: PULSE CHECK

# GOVERNMENT



## OUR PANEL OF EXPERTS FORESEES MORE RESTAURANT REGULATIONS AHEAD.

This includes regulations in emerging areas such as third-party delivery, data privacy, environmental rules, and packaging. The trend will be even more pronounced at the local and state levels, our panel predicts.

Some see more mandates coming on employee benefits, and more taxes on alcoholic beverages and foodservice-focused taxes.

The recommendation: Get on top of it now. And stay engaged with your lawmakers around issues and regulations that are key to the industry's success.

Despite concerns about new regulations, panelists say the industry's entrepreneurial spirit will be going strong in 2030.

“The industry will employ more lobbyists at city halls than at the state and federal levels, combined.”

— Delphi panelist



## MOST LIKELY DEVELOPMENTS BY 2030

- ✓ State and local governments will increase restaurant industry regulation.
- ✓ There will be increased regulation around third-party delivery.
- ✓ The federal government will enact more data-privacy rules to regulate how businesses handle customer data.
- ✓ New environmental regulations will increase operating expenses.
- ✓ There will be more government regulation of restaurant takeout and single-use packaging.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✓ Government will increasingly regulate portion sizes of menu items.
- ✓ Restaurateurs will become more involved in donating to political candidates and causes.

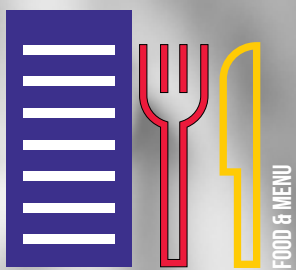
See appendix for full survey results.



The industry is always entrepreneurial and will always survive. That is the nature of the individuals that go into the hospitality business.

— Delphi panelist





FOOD & MENU

“

Menus will continue to be innovative and fresh; this is what the consumer demands.”

— Delphi panelist



2030: PULSE CHECK

# FOOD & MENU



## MOST LIKELY DEVELOPMENTS BY 2030

- ✓ Restaurants will offer more healthy options on their menus.
- ✓ Plant-based protein (vegetarian) food products will grow in popularity.
- ✓ Consumers will increasingly ask for allergen information.
- ✓ Consumers' palates will be more sophisticated.
- ✓ Global-cuisine-themed restaurants will grow in popularity.
- ✓ Restaurants will offer more fresh produce options on their menus.
- ✓ Consumers' interest in food sourcing will increase.
- ✓ Local food sourcing will become more commonplace.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✓ Restaurants will be less likely to offer paper menus.
- ✓ Restaurant menus in general will offer fewer choices.

**IF YOUR MENU HAS THE WORDS “SUSTAINABLY SOURCED,” YOUR INGREDIENTS ARE CONSIDERED “CLEAN” AND YOU’RE PREPARED TO TELL THE STORIES BEHIND THE FOOD YOU’RE SERVING, THEN YOU’RE ALREADY LIVING IN THE RESTAURANT OF THE FUTURE.**

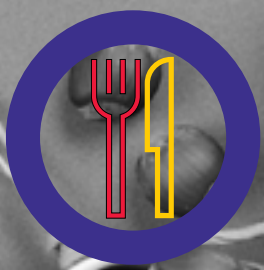
It’s not surprising that the Delphi panel predicts that the years ahead are going to focus increasingly on healthy options, sourcing, local foods, and a product’s journey from farm to table. Look for increased demand for plant-based proteins and global cuisines.

See appendix for full survey results.

2030

RESTAURANT INDUSTRY 2030 • NATIONAL RESTAURANT ASSOCIATION





HEALTH & NUTRITION



2030: PULSE CHECK

# HEALTH & NUTRITION

**IF EATING AT A RESTAURANT IS AN EXPERIENCE, THEN THE EXPERIENCE YOUR DINERS WANT WHEN IT COMES TO HEALTH AND NUTRITION IS A FLAVOR AND DISH THEY CAN'T GET AT HOME.**

Sometimes that means “comfort food,” regardless of the food’s nutrition content, say our Delphi panelists.

The restaurant of the future is going to be expected to be creative and innovative about the healthy dishes it offers, including for children. The Delphi panel expects that more consumers will have dietary restrictions — and that operators will offer more options to satisfy specific diets. Many see a focus on reducing added sugars in menu items.

“  
Fresh, fresh, fresh.”  
— Delphi panelist

“  
Anyone serving food will have to be transparent about the health information of the product.”  
— Delphi panelist



## MOST LIKELY DEVELOPMENTS BY 2030

- ✓ Regardless of the nutritional content of the food, consumers will still want comfort foods.
- ✓ Restaurants will offer more healthy food and beverage options for children.
- ✓ Restaurants will be more creative and innovative in making dishes more healthful.
- ✓ Restaurants will offer more options to satisfy specific diets.
- ✓ A larger proportion of consumers will have dietary restrictions.
- ✓ Restaurants will offer more food and beverage items that are lower in added sugars.

## LEAST LIKELY DEVELOPMENTS BY 2030

- ✓ Restaurants will be more likely to retain the services of a registered dietitian, whether on staff or as a consultant.
- ✓ There will be restrictions on advertising “unhealthy” foods.

See appendix for full survey results.

2030

RESTAURANT INDUSTRY 2030 • NATIONAL RESTAURANT ASSOCIATION





SUSTAINABILITY



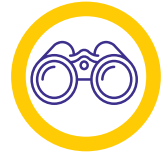
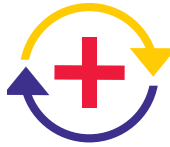
Waste is a huge challenge, yet to be adequately addressed.

— Delphi panelist



2030: PULSE CHECK

# SUSTAINABILITY



## MOST LIKELY DEVELOPMENTS BY 2030

- Equipment used in restaurants will be more energy-efficient.
- More restaurant operators will promote their sustainability practices and efforts in marketing to consumers.
- More restaurants will implement recycling programs.
- Restaurants will offer more menu items that are sustainably sourced.
- There will be a decline in single-use restaurant packaging.
- Eco-friendly restaurant designs will be more common.

## LEAST LIKELY DEVELOPMENTS BY 2030

- A larger proportion of restaurant energy will be supplied by nuclear power.
- Restaurant utility costs will decrease as a proportion of total operating costs.

## SUSTAINABILITY WILL BE INTEGRATED INTO EVERY ASPECT OF RESTAURANT OPERATIONS IN 2030.

Environmentally friendly practices have been increasing over the last decade and our panelists expect them to increase even faster in the next one as innovative restaurants lead the way in sustainable operations. Look for more energy-efficient equipment, recycling programs, sustainably sourced menu items, and environmentally friendly restaurant design. With a surge in delivery, packaging considerations will become more important.

As sustainability becomes more top-of-mind for guests as they make restaurant decisions, promoting sustainability practices will become increasingly part of a restaurant's marketing efforts, panelists say.



Packaging regulations will increase. This is a tremendous opportunity to be proactive.

— Delphi panelist



2030

RESTAURANT INDUSTRY 2030 • NATIONAL RESTAURANT ASSOCIATION

See appendix for full survey results.



# 2030: THE DISRUPTORS THINK AHEAD

**WHILE DEVELOPING THE SCOPE OF THE RESTAURANT INDUSTRY 2030 REPORT, THE ASSOCIATION COLLABORATED WITH A TEAM OF FUTURISTS.**

Foresight Alliance's team of futurists apply science and research to help companies build business plans that withstand, respond to, and even capitalize on developments that may arise in the coming decades.

The team excels in consequential thinking, and bringing in non-restaurant trends, to consider:

## **WHAT ARE THE POTENTIAL RAMIFICATIONS OF TODAY'S WAY OF LIFE ON TOMORROW'S WAY OF LIFE?**

The firm maintains a list of "disruptors," developments and trends that have the potential to affect lifestyles and businesses. Each disruptor is a "space to watch." These are not predictions, nor even expected futures — but they are possible futures, based on external factors such as demographic trends and artificial intelligence.

Disruptors are opportunities, too. They can help us look ahead to spaces where there's a need, spaces where people aren't working in them yet. The trick is to get as many people working in them as possible, thinking about the future together.

We've selected a few we think could have a particular impact on the restaurant space. Of the 10, perhaps only three or four will happen, or maybe they'll happen in different ways with effects we didn't see coming.

# 1. THE INTELLIGENT RESTAURANT

## KEEP AN EYE OUT FOR ...

- A sufficiently intelligent restaurant may be able to do more of its own supply chain management.



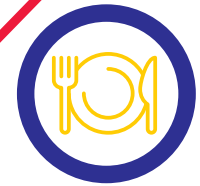
2030: THE DISRUPTORS

## INFORMATION TECHNOLOGY WILL PERMEATE RESTAURANTS.

This will enable restaurants to interact in real time with an evolving digital ecosystem of apps, services and personal AI assistants (apps such as Siri (Apple) or Alexa (Amazon) that understand natural-language voice commands, complete tasks for the user, and over time “learn” their owners’ preferences). All will deeply integrate into consumers’ everyday decisions. It will be increasingly important for restaurants to provide accessible, detailed and accurate data. Restaurants will be able to use new data capabilities to develop dynamic menus with real-time pricing that can respond to supply-and-demand changes. Relevant data about restaurant operations will include details on nutrition, preparation methods, ingredients and supply-chain authentication.

## WHY THIS COULD HAPPEN

- ✓ Near-universal smartphone adoption.
- ✓ AI as personal assistant and gatekeeper between a brand and consumer.
- ✓ The spread of the Internet of Things (IoT), physical objects embedded with electronics, software, sensors and network connectivity that enable the objects to collect, send and receive data.
- ✓ Growth of voice search, which allows users to search the Internet by verbally asking a question via smartphone, smart device or a computer.
- ✓ Growing demand for personalized diets (e.g., allergies, weight, religion, ethics).
- ✓ Consumer choices as an expression of social and political values.

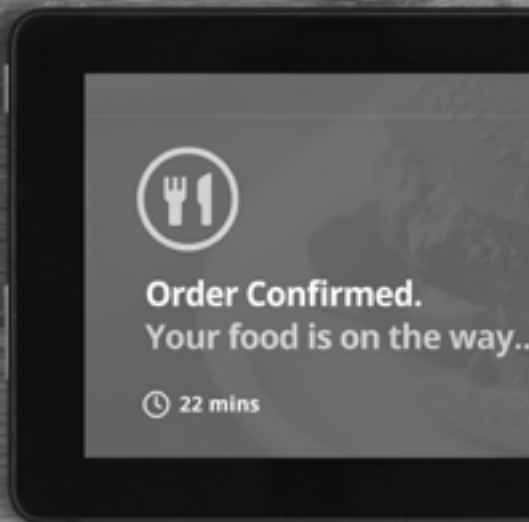


## WHY THIS MATTERS FOR RESTAURANTS

- ✓ A growing information ecosystem will require upgrades and integration of restaurant data collection and IT systems.
- ✓ Brands will market directly on virtual-assistant platforms and may find the platforms’ algorithms to be highly responsive to small tweaks in restaurant pricing or other data.
- ✓ All aspects of restaurant operations will be more transparent, such as health inspections, safety training, staff certifications and food sourcing.
- ✓ Effective management of food allergens will grow in importance as consumers expect documentation of food preparation, ingredients and practices.



# 2. VIRTUAL RESTAURANTS & CLOUD KITCHENS

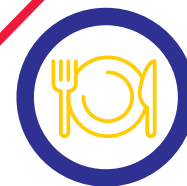


## KEEP AN EYE OUT FOR ...

- In some cases, owners of virtual restaurants could discover opportunities to open permanent physical restaurants based on their precise knowledge of local tastes.
- Data mining could enable hyperlocal, rapidly created virtual restaurants to serve the demonstrated tastes of a market.



## 2030: THE DISRUPTORS



### ACCELERATING TRENDS IN TECHNOLOGY AND CONSUMER DEMAND WILL LEAD TO MORE “CLOUD KITCHENS” AND “VIRTUAL RESTAURANTS” —

restaurants that exist only online or via an app. Growth will be fueled by the expansion of central kitchens for food prep, and social media marketing that showcases menus, philosophies and chefs. New chains could quickly emerge regionally or nationally.

### WHY THIS COULD HAPPEN

- ✓ Proliferation of centralized kitchens serving delivery.
- ✓ Expansion of online delivery brands.
- ✓ Rising real estate and labor costs.
- ✓ Time-pressed consumers who don't want to cook.
- ✓ Expanded role of social media in brand marketing.
- ✓ Increasing demand for convenience.
- ✓ Lifestyles of “digital natives,” those who have grown up in the digital age.
- ✓ Food-preparation robotics and new delivery options.

### WHY THIS MATTERS FOR RESTAURANTS

- ✓ The rise of “placeless” restaurants will challenge and redefine the concept of what a restaurant is.
- ✓ Like other industries that have moved online, virtual restaurants would likely see a relative lowering of costs (such as staff and rent) and of other barriers to entry in launching a restaurant.
- ✓ Virtual restaurants could substantially alter the franchising model.
- ✓ The expansion of centralized kitchens for meal prep will support the ongoing growth of app-based meal delivery services.
- ✓ A shift to cloud kitchens would likely affect municipal real estate markets as well as local commercial and retail areas that serve the customers of physical restaurants.
- ✓ Surprise pop-up versions of these online-only restaurants could bring the experience of these restaurants to the real world and build exclusivity.

# 3. APPS CHALLENGE YOUR BRAND



## KEEP AN EYE OUT FOR ...

- Food halls could merge with — or could sometimes be cobranded with — large food delivery apps.
- Data collection/consumer profiles could lead to food delivery apps dictating menus to restaurants, including which restaurants are “allowed” to make certain kinds of food.



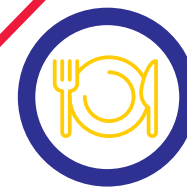
2030: THE DISRUPTORS

## CONSUMERS MAY GROW INCREASINGLY LOYAL TO THIRD-PARTY DELIVERY APPS, ECLIPSING LOYALTY TO INDIVIDUAL RESTAURANTS.

Third-party delivery apps are emerging as a key gatekeeper between consumers and restaurants, able to capture consumers’ business with convenient, frictionless ordering. With a growing number of consumers using third-party apps as their primary interface with restaurants, app companies could build on these relationships by creating private-label brands, similar to what many big-box and grocery stores have done. By contracting with local restaurants to offer app-associated “house-brand” meals, app companies could further sever a direct connection between restaurant and consumers.

## WHY THIS COULD HAPPEN

- ✓ Rapid rise of food delivery and other off-premises options.
- ✓ Consumer expectations of seamless convenience.
- ✓ Consolidation among food-delivery apps.
- ✓ Success of private labeling in retail.
- ✓ Apps lock in customers through a “network effect” — the more users who use the apps, the more valuable the apps.
- ✓ Delivery services’ acquisition of “shadow” restaurant URL domains.



## WHY THIS MATTERS FOR RESTAURANTS

- ✓ Start-up independent restaurants could find opportunities in wholesaling to delivery apps.
- ✓ An industry-financed delivery app could preserve restaurants’ direct brand relationships with consumers.
- ✓ Restaurants can use specialized, unique menu items to defend against brand disintermediation.
- ✓ Food-delivery packaging becomes an increasingly important touchpoint for brand interaction with consumers.

# 4. AUTONOMOUS VEHICLES

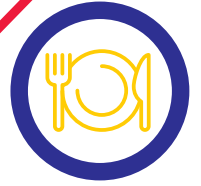


## KEEP AN EYE OUT FOR ...

- More restaurants may need drive-thrus, in effect — but geared toward online and automated interactions.
- Some automated food trucks could become automats on wheels, circulating with selections from a group of restaurants, or their own preparations.



2030: THE DISRUPTORS



## WHY THIS MATTERS FOR RESTAURANTS

- ✓ Restaurants that engage early with AVs will get practice in processes that are likely to become common in the future.
- ✓ Software, including AI assistants that recognize voice commands and complete tasks for users, will increasingly choose destinations and will eventually interface with cars directly. Having a strong and clear marketing presence in all relevant channels — including screens in AVs — will grow more important for restaurants.
- ✓ Autonomous delivery vehicles may be feasible sooner than fully self-driving passenger cars and could change the economics of delivery.
- ✓ Restaurant layouts and drive-thrus will need to accommodate interactions with self-driving vehicles.
- ✓ Cars that are increasingly hands-free will mean different kinds of foods can be consumed in cars.

## AUTONOMOUS VEHICLES (AVS) PROMISE TO CHANGE HOW PEOPLE ON THE ROAD GET THEIR FOOD, AND WHAT THEY EAT AND DRINK IN CARS.

People will have more time to eat, with both hands, in their vehicles. Longer travel times will be possible, making it useful to carry and reheat food while on the road. Restaurants can geo-target their marketing. Eventually, driverless cars will go through drive-thrus.

## WHY THIS COULD HAPPEN

- ✓ Artificial intelligence advances.
- ✓ Autonomous vehicle development.
- ✓ Consumer convenience expectations.
- ✓ Expanding online ordering and delivery infrastructure.
- ✓ Patterns of automobile and truck use.
- ✓ Advanced safety technology.
- ✓ Declining tolerance for risk.



# 5. BIG TECH BUNDLES FOOD



2030: THE DISRUPTORS



## WHY THIS MATTERS FOR RESTAURANTS

✔ Well-funded, non-traditional businesses could stake out positions within the restaurant industry and disrupt the status quo.

✔ Non-traditional operators will bring new ideas and new approaches to the restaurant industry.

✔ There will be opportunities for existing operators to partner with the new entrants.

✔ The scale, reach, and commitment to years-long losses to capture market of some online retailers will test competitors.

✔ There will likely be greater integration of industry segments — wholesalers, grocers, supply companies — as new-entrant companies use logistics experience to maximize efficiency and minimize costs.

## NON-FOOD COMPANIES COULD ADD FOOD AND PREPARED MEALS TO THEIR OFFERINGS AS AN ADDED SERVICE.

For example, a media-streaming service could buy or pair with existing meal delivery services to create an all-in-one dinner and entertainment experience. Or an online retailer could leverage one-click ordering, logistics and delivery expertise to add meals to their subscriptions. Restaurants could move beyond current loyalty or rewards programs and offer flat-rate monthly subscription plans to customers.

## WHY THIS COULD HAPPEN

✔ Growth in third-party delivery apps.

✔ More online retail options.

✔ Low-friction buying options (e.g., one-click purchases).

✔ Expectations and lifestyles of digital natives.

✔ Dominance of “big tech” companies with expertise in logistics and last-mile delivery.

✔ Proliferating delivery models and services.



## KEEP AN EYE OUT FOR ...

- Food ordering could become directly integrated with ordering media content.



# 6. THE BIONIC RESTAURANT



## KEEP AN EYE OUT FOR ...

- Food engineer could be a job category that spreads into the restaurant industry.

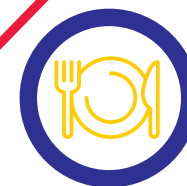


### AUTOMATION AND ROBOTICS WILL BEGIN TO PLAY A GREATER ROLE IN FOOD PREPARATION AND THE KITCHEN LINE.

Automation technologies such as touchscreen ordering kiosks are already spreading in front-of-house restaurant operations. Back-of-house operations will become more fully automated as costs fall and flexible, reprogrammable robot systems grow more sophisticated. This will allow automation of more of the repetitive elements of food preparation and even permit motion-capture replication of the movements of chefs. Chefs will work in collaboration with these systems, using their physical senses and expert judgment.

### WHY THIS COULD HAPPEN

- ✓ Machine-learning advances (machines learn from data, identify patterns and make decisions with minimal human intervention).
- ✓ Development of flexible, reprogrammable robots.
- ✓ AI services provided by Google, Amazon, Microsoft, and others.
- ✓ Growth in data analytics.



### WHY THIS MATTERS FOR RESTAURANTS

- ✓ Higher automation-backed kitchen productivity can reduce staffing needs and alter compensation patterns.
- ✓ Using robotic equipment will become part of the kitchen staff skillset, and part of restaurant kitchen workflows.
- ✓ Robotics will enhance food-quality consistency.
- ✓ Operations will have higher capital costs, and potentially lower labor costs.

# 7. THIRD SPACE RESTAURANTS



## KEEP AN EYE OUT FOR ...

- Third-space restaurants could become an arena in which people actively try to undo some of the polarizations that can divide American society.



### THE DECLINE OF SHOPPING MALLS AND “BRICKS-AND-MORTAR” RETAIL WILL LEAD TO RESTAURANTS BECOMING EVEN MORE IMPORTANT FOR PUBLIC OUTINGS, COMMUNITY ENGAGEMENT AND SOCIALIZING.

With their expanded and versatile seating options, gastropubs and full-bar fast-casual restaurants could evolve into American versions of German Biergartens, with less emphasis on table turnover and more emphasis on facilitating repeat socializing by customers. Café seating and local independent restaurants could help transform food courts in the direction of food halls and bustling Asian street-food markets.

### WHY THIS COULD HAPPEN

- ✓ Rise of ecommerce and decline of shopping malls.
- ✓ Need for social space as more people work remotely or at home.
- ✓ Aging of baby boomers.
- ✓ Retailers co-locating restaurants with stores.
- ✓ Rise of delivery, keeping people at home, or in offices.
- ✓ Mainstreaming of ‘foodie’ culture.
- ✓ Expansion of outdoor restaurant seating areas.
- ✓ Growth and popularity of coffee bars, craft breweries and food halls.



### WHY THIS MATTERS FOR RESTAURANTS

- ✓ Growth in takeout and food delivery will increase the importance of the face-to-face restaurant experience.
- ✓ The need for more socializing space will change restaurant layouts and space allocation. Zoning laws could interfere with outdoor seating allowances.
- ✓ Embracing the social aspects of global food cultures can add an experiential component to restaurant visits and expand the appeal of international food offerings.

# 8 WEATHER VOLATILITY

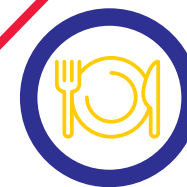


## KEEP AN EYE OUT FOR ...

- Food waste could be targeted, requiring adjustments in how food is sourced, prepared, served, and disposed of.



2030: THE DISRUPTORS



## WHY THIS MATTERS FOR RESTAURANTS

- ✔ Disrupted weather patterns may cause spikes and volatility in food prices even before food costs reach a relatively higher level.
- ✔ A sustained higher proportion of food costs would change the basic economics of restaurant operations.
- ✔ More consumers will have grown up with weather-related information and be more responsive to its effects in restaurants, such as the carbon footprint of foods and the impact of packaging.
- ✔ Weather-change issues may spur the perfection of alternative “meats” (for example, plant-based and lab-grown/cell-based meats) and consumer enthusiasm for them.
- ✔ Weather-related public policy could affect other operational costs for restaurants, such as transportation, energy expenses and packaging.

## WEATHER VOLATILITY COULD DRIVE UP FOOD COSTS BY CAUSING DISRUPTIONS IN AGRICULTURE AND THE FOOD DISTRIBUTION SYSTEM.

This would reverse the long-term trend of falling household food costs in developed countries. The issue: growing patterns of both staple and specialty crops may be disturbed as weather change affects agriculture, including shifts in water availability. Secondary factors may drive up food costs as well, such as carbon taxes on energy used in food production and transportation, or direct taxes on carbon-intensive foods.

## WHY THIS COULD HAPPEN

- ✔ Rising global temperature volatility.
- ✔ Weather-based shifts in agricultural seasons and growing areas.
- ✔ Weather-induced disasters such as floods and drought.
- ✔ Weather-conscious consumers ready to act on the impact of specific foods' carbon footprints.
- ✔ Global growth of middle classes, driving food demand.
- ✔ Development of vegetable-based meat alternatives.



# 9. CULINARY AI

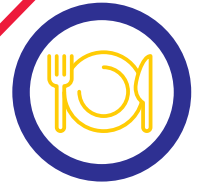


## KEEP AN EYE OUT FOR ...

- There may be attempts to patent recipes not as ingredient lists but as technological processes.
- The software and recipes to support automated cooking could be valuable digital intellectual property in need of security.



## 2030: THE DISRUPTORS



## WHY THIS MATTERS FOR RESTAURANTS

✓ AI chefs and recipe builders could create entirely new categories of cuisine and beverages, which could lead to new kinds of restaurants.

✓ Because they “live” in software, AI chefs are placeless and thus could be run at many locations simultaneously.

✓ More facets of cooking will be organized to be readable by artificial intelligence.

✓ If provided with medicinal and health information, AI chefs driven by algorithms could be programmed to maximize the health benefits of recipes and foods.

✓ Backlash against automation of all kinds could create a “return to artisanal” movement — predicated on humans being the center of all parts of the food and beverage process.

## ARTIFICIAL INTELLIGENCES WITH KNOWLEDGE OF COOKING TECHNIQUES, FOOD CHEMISTRY, RECIPES, AND ALCOHOL WILL PRODUCE UNEXPECTED NEW CULINARY AND BEVERAGE EXPERIENCES.

An AI with the algorithmic ability to analyze and synthesize inhuman amounts of data and information about foods, beverages, ingredients, chemical compounds, and tastes will result in the creation of recipes, dishes and beverages beyond, and unlike, what humans would produce. Some AIs will become as well-known as human chefs, baristas and bartenders.

## WHY THIS COULD HAPPEN

✓ Rapid advances in artificial intelligence.

✓ AI-derived new discoveries.

✓ AI-designed recipes.

✓ Algorithmic eating guidance.

✓ Machine-readable data (ingredients, processes, etc.).

✓ Popularization of AI chefs, baristas and bartenders in the media.

# 10. MEDICAL MEALS



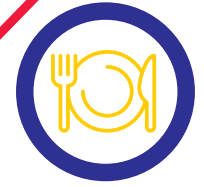
2030: THE DISRUPTORS

AN AGING U.S. POPULATION, ADVANCED GENETIC KNOWLEDGE, AND THE RISING INCIDENCE OF LIFESTYLE DISEASES SUCH AS HEART DISEASE, OBESITY AND TYPE 2 DIABETES WILL CREATE GROWING DEMAND FOR MEALS THAT PROVIDE SPECIFIC HEALTH BENEFITS TO DINERS, ON AN INCREASINGLY PERSONALIZED LEVEL.

In some cases, these meals may be prescribed by doctors or as part of coverage by insurance companies. For restaurants, costs for providing these meals could be offset by relationships with health care and insurance providers, which would direct patients to eateries with the proper medical meal and portion for their condition.

## WHY THIS COULD HAPPEN

- ✔ Rise in health care spending, including prescription drugs.
- ✔ Aging populations.
- ✔ Efforts in preventative care.
- ✔ Menu personalization for diet and health.
- ✔ Ingredient restrictions for diet and health.
- ✔ Faster, cheaper, more accessible human-genome testing for personal health care data.



## WHY THIS MATTERS FOR RESTAURANTS

- ✔ Prescription meals will be more precisely targetable with a growing understanding of how food can impact gut microbes or activate gene traits.
- ✔ People like to eat good food, even if they have medical restrictions. The growing recognition of chronic conditions that are helped or hindered by eating appropriate foods could make prescription meals an important new category of prepared foods.
- ✔ Restaurants will need to provide clearer, more thorough information about ingredients in dishes so that customers can make better-informed decisions about choosing a meal based on health.



## KEEP AN EYE OUT FOR ...

- Personal digital assistants could manage people's diets with nudges, information-shaping "filter bubbles," and "choice architecture" to manage health, weight, etc.
- Insurance companies could begin to require information about what and how their customers are eating.



# APPENDIX

## Delphi Methodology

One of the most important aspects of a Delphi study is selecting the panel of experts who will lend their judgments to the topic being researched. For this study, Delphi was able to rely on an already-assembled group of experts – the National Restaurant Association Board of Directors. Based on their industry experience, these individuals are able to offer predictions on industry conditions in 2030. A variety of other experts were invited to join the panel, including the National Restaurant Association Educational Foundation Board of Trustees, state restaurant association leadership, suppliers, manufacturers, distributors and consultants.

## Delphi Process

The research's first phase began in 2018 with an open-ended questionnaire that allowed panelists to raise any and all issues they believed would be important to the industry in 2030. Based on responses generated in the open-ended questionnaire, a second questionnaire was developed, asking respondents to rate 180 statements about possible developments in the industry on a scale from +3 to -3, where +3 equals "very likely to occur" and -3 equals "very unlikely to occur." All 180 statements are listed here. The Restaurant Industry 2030 research initiative was based on responses from more than 100 industry experts.

## Detailed Survey Responses

Survey responses below are ranked according to the average rating they received on the +3 to -3 scale.

## STATEMENTS RANKED BY CATEGORY

INDUSTRY STRUCTURE		AVERAGE
1	Competition for customers will intensify.	2.8
2	Convenience stores and grocery stores will expand their foodservice offerings.	2.4
3	The restaurant industry will continue to be a breeding ground for entrepreneurialism.	2.3
4	There will be more delivery options in smaller markets.	2.0
5	Virtual or "ghost" restaurants that only offer delivery will be more common.	2.0
6	Off-premises traffic will post stronger growth than on-premises traffic.	2.0
7	Consolidation in food manufacturing and distribution will intensify.	2.0
8	The limited-service segment (quick-service, fast casual, coffee and snack) will post stronger growth than the table-service segment.	1.8
9	The table-service segment will place a greater emphasis on growing off-premises traffic.	1.8
10	Chain unit growth will be driven more by franchising than adding company-owned stores.	1.8
11	There will be a greater emphasis on experiential restaurants to drive on-premise traffic.	1.6
12	The restaurant and foodservice industry will capture a larger share of consumers' food dollar.	1.6
13	Tipping in table-service restaurants will still be commonplace.	1.4
14	Suppliers will become increasingly like partners with restaurant operators.	1.3
15	The number of restaurant and foodservice locations will continue to grow.	1.3
16	Chef-driven restaurant concepts will be more common.	1.1
17	Restaurant industry sales growth in the upcoming decade will be more moderate than in the prior decade.	1.0
18	A larger number of American restaurant companies will expand internationally.	0.9
19	Independent operators will be the primary innovators and new product developers.	0.8

RESTAURANT FACILITIES & OPERATIONS		AVERAGE
1	Packaging designed exclusively for delivery and carryout will be more sophisticated and effective.	2.4
2	More restaurant layouts will include areas dedicated to delivery and carryout.	2.3
3	More restaurants will be designed to reduce use of energy and water and minimize waste.	2.2
4	The typical restaurant footprint will be smaller.	2.0
5	Computerized cooking equipment will become more common in restaurant kitchens.	2.0
6	Restaurant space utilization will be more flexible.	1.9
7	Restaurants will be more likely to offer self-service options for customers.	1.7
8	Restaurant design will become more experiential.	1.5
9	More restaurants will have open-kitchen designs for display cooking.	1.1
10	Mobile foodservice (food trucks) will account for a larger share of sales and traffic.	0.5
11	Restaurants will include more retail space.	0.0
12	Restaurants will increase their hours of operation.	-0.3





## APPENDIX

PROFITABILITY & INCOME		AVERAGE
1	Total employee compensation costs will increase as a percent of sales.	2.3
2	Real estate costs will escalate more rapidly as competition for prime sites increases.	1.6
3	Smaller operators will have greater access to fully integrated software systems — from scheduling to ordering supplies to tracking sales/traffic metrics — which will increase their profitability.	1.5
4	Investments in technology will increase restaurant profitability.	1.3
5	Operators will be more likely to invest in training to increase productivity.	1.1
6	Alcohol sales will increase as ride-sharing apps and self-driving vehicles reduce the risks of drunk driving.	0.9
7	Growth in alcohol delivery will increase profit margins for restaurants.	0.8
8	A higher proportion of restaurants will stop accepting cash.	0.8
9	Traditional brick and mortar restaurants will be more likely to create “pop-up” concepts as an additional source of revenue.	0.7
10	Restaurants will share a larger percentage of profits with third-party delivery firms.	0.6
11	Operations with lower-check-per-person averages will have higher profit margins than higher-check operations.	0.1
12	Food and beverage costs will decrease as a percent of sales.	-1.0
13	Restaurant profit margins will increase.	-1.2
FINANCING THE BUSINESS		AVERAGE
1	Private financing of restaurant operations will be more common than public financing.	1.4
2	Meeting the demands of stockholders will force more public restaurant companies to go private.	1.1
3	Financing for independents will be harder to obtain.	0.8
4	A greater foreign presence in restaurant financing will occur.	0.6
5	Crowd-sourcing of funds will become more important for niche foodservice concepts.	0.6
6	Suppliers will be more likely to invest in new restaurants and concepts.	0.0
7	The restaurant industry will be more attractive to investors.	-0.1
8	More funding will come from tax incentives offered to small businesses for job creation.	-0.2
9	Local independent banks will be more willing to finance restaurants.	-0.5
10	Accessing credit will become easier for restaurant operators.	-0.8



# APPENDIX

TECHNOLOGY & DATA		AVERAGE
1	It will be commonplace for restaurants to accept mobile payments.	2.5
2	Handheld payment terminals that allow for pay-at-the-table will be commonplace.	2.5
3	The vast majority of takeout and delivery orders will be placed digitally.	2.4
4	The use of kiosks in limited-service restaurants will be commonplace.	2.2
5	Video menu boards in limited-service restaurants will be commonplace.	2.2
6	Turning point-of-sale (POS) data into actionable knowledge for operators will become easier.	2.1
7	Technology will be more effectively used to control costs and enhance management efficiency.	2.1
8	Artificial intelligence (AI) will be used in more ways, such as optimizing menu prices or having an app or tablet verbally suggest menu items for consumers.	1.9
9	Restaurant inventories will be calculated and transmitted automatically as product is removed from inventory.	1.8
10	Restaurants will provide more tools for customers to give real-time feedback electronically.	1.8
11	Restaurants will rely more on third parties for data hosting.	1.8
12	Handheld tablet menus in tableservice restaurants will be commonplace.	1.6
13	Restaurants will invest more in cybersecurity to protect consumer data.	1.6
14	Increased usage of virtual assistants by consumers to place voice orders as well as to initiate general restaurant and menu item searches will be an important productivity and sales driver.	1.4
15	Customers will be less forgiving when data breaches occur.	1.3
16	Drones, self-driving vehicles and robots will play a larger role in delivery.	1.2
17	Customers will embrace data collection in their everyday restaurant experiences, with their permission.	1.1

WORKFORCE		AVERAGE
1	Women will hold a larger proportion of upper management jobs in the restaurant industry.	2.1
2	Minorities will hold a larger proportion of upper management jobs in the restaurant industry.	2.0
3	The average number of employees per restaurant location will decline.	2.0
4	The restaurant industry workforce will become more diverse.	1.9
5	The restaurant industry will remain very labor-intensive despite technological developments.	1.8
6	The restaurant industry will increase compensation and benefit levels to attract and retain employees.	1.6
7	Immigrants will make up a larger proportion of the restaurant workforce.	1.5
8	Tech skills will be more highly valued in restaurant employees.	1.5
9	Older workers will make up a larger proportion of the restaurant workforce.	1.4
10	Restaurant operators will rely more on gig workers.	1.2
11	An increase in the use of automation and robotics will ease labor challenges for the restaurant industry.	1.1
12	Apprenticeship programs will become more popular in the restaurant industry.	1.1
13	Younger workers will make up a larger proportion of the restaurant workforce.	0.3
14	The average tenure in the industry for a typical employee will increase.	0.0





# APPENDIX

TRAINING & DEVELOPMENT		AVERAGE
1	More training will be provided online and on smartphones.	2.3
2	More employees will be certified in safe food handling through ServSafe products.	2.2
3	Allergen training for employees will be mandatory.	1.9
4	Independents will have greater access to professional training online.	1.9
5	More restaurants will develop and promote internal career ladders to help retain employees.	1.8
6	More restaurant operators will partner with schools and universities to recruit staff.	1.7
7	Multi-lingual employees will be in higher demand by restaurant operators.	1.6
8	Virtual-reality technology will be used in employee training experiences.	1.5
9	Restaurants will place greater emphasis on internal training and development.	1.4
10	Employers will increasingly value certifications that show proof of employees' restaurant operational skills.	1.1
11	Video games designed for restaurant-employee training will be more popular.	0.9
12	The typical restaurant employee will be more highly trained and educated.	0.7
MARKETING		AVERAGE
1	Restaurant operators will be more likely to implement more local, targeted and customized promotions.	2.1
2	Restaurants will be more likely to incorporate technology to allow menu offerings and prices to change depending on the time of day or day of the week.	2.0
3	Frequent-diner databases and loyalty programs will be used more frequently for online advertising and promotion.	1.9
4	Videos — both in-store and in digital marketing — will be used more frequently to market restaurants.	1.8
5	Restaurants will be more susceptible to negative social media.	1.7
6	Digital marketing will offer the best operator ROI among marketing/advertising channels.	1.6
7	Consumers will be more value-conscious.	1.6
8	Tourism spending in restaurants will rise, due in part to operators marketing directly to tourists.	1.3
9	More restaurant companies will offer their branded retail products for sale in the restaurant and stores.	1.1
10	Biometrics/facial recognition will be more widely available as part of identity authentication in loyalty programs.	1.1
11	More restaurants will sell meal kits or "prepare at home" options.	0.7
12	Customer loyalty at restaurants will decline.	-0.1
13	Discounting will be less common in restaurants.	-0.7





# APPENDIX

FOOD SAFETY & SECURITY		AVERAGE
1	Restaurant inspection results will be readily available to the public.	2.0
2	A majority of cases shipped in the supply chain will be equipped with universal bar codes or transponders.	1.8
3	More of the handling of food products in the supply chain will be done by machines, rather than people.	1.8
4	More food safety certification for hourly and management employees will enhance restaurant food safety.	1.7
5	Technologies such as blockchain will improve traceability in the restaurant supply chain.	1.6
6	More restaurants will implement comprehensive food safety management systems.	1.6
7	Food-chain security and "food defense" will receive greater attention to prevent intentional food contamination.	1.6
8	Background verifications of employees and suppliers will be more common.	1.5
9	The restaurant industry will develop a more comprehensive response to food security incidents.	1.5
10	There will be a greater push for global food safety standards.	1.5
11	Consumers will show an increasing awareness and interest in food safety.	1.5
12	The restaurant industry will develop a more comprehensive response to food safety incidents.	1.4
13	There will be greater oversight of foreign-grown food products.	1.3
14	Restaurants will spend a larger proportion of their budget on food safety.	0.8
15	The complexity of traceability will be an increased barrier to the local-foods movement.	0.5
GOVERNMENT		AVERAGE
1	State and local governments will increase restaurant industry regulation.	2.3
2	There will be increased regulation around third-party delivery.	2.2
3	The federal government will enact more data-privacy rules to regulate how businesses handle customer data.	2.0
4	New environmental regulations will increase operating expenses.	2.0
5	There will be more government regulation of restaurant takeout and single-use packaging.	2.0
6	The federal government will increase restaurant industry regulation.	1.9
7	The level of required benefits for employees will increase.	1.9
8	Alcoholic beverages will be more heavily taxed.	1.5
9	Taxes focused on foodservice will grow at all levels of government.	1.5
10	Providing nutrition information for food and beverage items will be mandatory, regardless of restaurant size.	1.1
11	The federal government will mandate food safety training for all restaurant employees.	0.9
12	Restaurateurs will become more involved in donating to political candidates and causes.	0.6
13	Government will increasingly regulate portion sizes of menu items.	0.3





# APPENDIX

FOOD & MENU		AVERAGE
1	Restaurants will offer more healthy options on their menus.	2.0
2	Plant-based protein (vegetarian) food products will grow in popularity.	2.0
3	Consumers will increasingly ask for allergen information.	1.9
4	Consumers' palates will be more sophisticated.	1.9
5	Global cuisine-themed restaurants will grow in popularity.	1.7
6	Restaurants will offer more fresh produce options on their menus.	1.7
7	Consumers' interest in food sourcing will increase.	1.6
8	Local food sourcing will become more commonplace.	1.6
9	Portion sizes in general will be smaller.	1.3
10	Restaurants will be more likely to offer CBD-infused options on their menus.	1.0
11	More food-and-beverage suppliers will have their products "branded" on menus.	1.0
12	Restaurant menus in general will offer fewer choices.	0.9
13	Restaurants will be less likely to offer paper menus.	0.8
HEALTH & NUTRITION		AVERAGE
1	Regardless of the nutritional content of the food, consumers will still want comfort foods.	2.4
2	Restaurants will offer more healthy food and beverage options for children.	1.8
3	Restaurants will be more creative and innovative in making dishes more healthful.	1.8
4	Restaurants will offer more options to satisfy specific diets.	1.7
5	A larger proportion of consumers will have dietary restrictions.	1.6
6	Restaurants will offer more food and beverage items that are lower in added sugars.	1.6
7	Items that are lower in fat, calories, and sodium will become commonplace on menus.	1.3
8	There will be increased synchronization between POS systems and consumers' personal health-monitoring devices/apps.	1.0
9	Restaurants will be more likely to offer smaller portions at lower prices.	0.8
10	There will be restrictions on advertising "unhealthy" foods.	0.5
11	Restaurants will be more likely to retain the services of a registered dietitian, whether on staff or as a consultant.	0.3





# APPENDIX

SUSTAINABILITY		AVERAGE
1	Equipment used in restaurants will be more energy-efficient.	2.3
2	More restaurant operators will promote their sustainability practices and efforts in marketing to consumers.	1.8
3	More restaurants will implement recycling programs.	1.8
4	Restaurants will offer more menu items that are sustainably sourced.	1.7
5	There will be a decline in single-use restaurant packaging.	1.7
6	Eco-friendly restaurant designs will be more common.	1.7
7	Restaurants will be more likely to take steps toward reducing their environmental impact.	1.6
8	A larger proportion of operators will purchase products made from recycled materials.	1.6
9	More restaurants will track food waste.	1.3
10	Consumers will be more likely to patronize restaurants with robust sustainability programs.	1.3
11	A larger proportion of restaurant energy will be supplied by natural gas.	0.9
12	A smaller proportion of restaurant energy will be supplied by oil.	0.9
13	More restaurants will implement composting programs.	0.7
14	More restaurants will use their sourcing policies and practices to set higher animal-welfare standards.	0.7
15	A larger proportion of restaurant energy will be supplied on-site by solar power.	0.3
16	A larger proportion of restaurant energy will be supplied by wind power.	0.1
17	Restaurant utility costs will decrease as a proportion of total operating costs.	-0.5
18	A larger proportion of restaurant energy will be supplied by nuclear power.	-0.8







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NOVEMBER 2019 • [RESTAURANT.ORG/RESTAURANTS2030](http://RESTAURANT.ORG/RESTAURANTS2030)

**2020** was a year unlike any other for the foodservice industry. It tested the limits of operator innovation, accelerated trends, and confirmed that customers miss their restaurant experiences.

The following food and menu trends didn't offset the industry's devastation; it's down nearly \$240 billion in sales and nearly 2.5 million employees are still out of work. But they do show restaurateurs' resiliency, innovation and commitment. The following were the top operating means by which restaurants survived 2020, from a survey of 6,000 operators and consumer preferences from a survey of 1,000 adults.



## 2021 TOP RESTAURANT TRENDS

Read more in our 2021 STATE OF THE RESTAURANT INDUSTRY



### 1. Streamlined menus

Fullservice operators got lean fast, reducing inventories and developing menu items they could make well with a smaller staff. These items had to travel well and be what customers craved. Expect menus to stay trimmed in coming months.

### 2. Off-premises takes precedence

Prior to the pandemic, 80% of fullservice restaurant traffic was on-premises. Then in March 2020, most restaurants were forced to shut down on-premises dining. In what's likely the fastest pivot in industry history, focus quickly shifted to off-premises, via takeout and delivery.

### 3. Blended meals, a team effort

Homebound, customers like to mix up meals—maybe

make the main dish but order appetizers, sides or dessert from a restaurant. Millennials are especially big fans of the blended meal.

### 4. Bundled meals? Considered deals!

Why do any cooking? Customers' restaurant choices can be influenced by the offer of a bundled meal that perhaps includes an appetizer, entrée and dessert in either family packs or for individual meals.

### 5. Meal kits make cooking fun

More than half of adults surveyed say they'd likely purchase a meal kit if it was offered by one of their favorite restaurants. That percentage rises to 75% for both millennials and Gen Z adults. Kits package pre-measured ingredients and

instructions to make the restaurant meal at home.

### 6. Meal subscriptions

Customers sign up to get meals during the month for pickup or delivery—at a discounted price. More than half of consumers surveyed say they'd sign up if their favorite places offered this option.

### 7. Selling groceries

Seems like anything that saves a trip gets a thumbs up. More than half of consumers surveyed would buy groceries (fresh, uncooked food items such as meat, produce, dairy, bread or pasta) if restaurants offered them.

### 8. Alcohol to go

A third of off-premises customers (ages 21+) say they included an alcoholic beverage

with a takeout or delivery order since the beginning of the COVID-19 outbreak, and they'll continue to in the future.

### 9. Comfort foods

Consumers say menus that offer a good selection of comfort foods influence their restaurant choice. From haute to homey, a third of fine dining operators surveyed are adding more comfort items—think burgers, pot pies, lasagna, soups, curries, sandwiches, pizza and noodle dishes.

### 10. Healthy and diet-specific food

To the same degree the availability of comfort foods influences restaurant choice, so do healthful menu options. Diet-specific items (gluten-free, vegan, etc.) however, are less important right now.



**What Customers Crave.** Each year, the National Restaurant Association publishes its annual What's Hot Culinary Forecast to identify the menu trends to watch in the coming year, as identified in a survey of American Culinary Federation chefs.



This year, to identify what's *truly selling best* during the pandemic, we asked restaurant operators for their single most popular menu item right now.

The vast majority say their current top-selling food and beverage items were already on menus prior to the coronavirus outbreak.



**Top Sellers:  
Fullservice**  
(Fine Dining, Family Dining, Casual Dining)

1. Burgers
2. Seafood items
3. Pizza
4. Steak
5. Chicken items (excl. wings)
6. Breakfast items
7. Pasta
8. Mexican food
9. Sandwiches / Subs / Wraps
10. Chicken wings

**Top Sellers:  
Limited Service**  
(Quickservice, Fast Casual, Coffee & Snack)

1. Sandwiches / Subs / Wraps
2. Pizza
3. Burgers
4. Chicken items (excl. wings)
5. Ice cream / cookies / cakes
6. Baked goods
7. Breakfast items
8. Mexican food
9. BBQ items
10. Seafood items

**METHODOLOGY**

**National Household Survey, 2020:** The National Restaurant Association commissioned Engine to conduct an online survey of 1,000 adults in December 2020, asking questions about their personal finances and interaction with restaurants.  
**Restaurant Trends Survey, 2020:** The National Restaurant Association conducted an online survey of 6,000 restaurant owners and operators in November-December 2020, asking questions about their business and operating environments.





# MEMORANDUM

Planning Division

**DATE:** April 8<sup>th</sup>, 2022

**TO:** Planning Board Members

**FROM:** Leah Blizinski, City Planner

**APPROVED BY:** Nick Dupuis, Planning Director

**SUBJECT:** Accessory Structures - Air Conditioning Units

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Air conditioning is an important cooling and adaptation strategy for citizens. The most efficient air conditioner operation is achieved through the shortest lines between the furnace and the outdoor condenser unit. Installing air conditioners on the outside wall directly adjacent to the furnace provides for the shortest lines and maximum operational efficiency. Birmingham, like many of its neighboring communities has a number of principal structures built before its modern Zoning Ordinance was adopted. As such, there are a number of homes in the city with nonconforming side-yard condenser units to this day.

The City of Birmingham does not explicitly disallow condensers in side yards, but has established a precedence of regulating ac condenser units as Accessory Structures. Article 4.03 (A) states that "No accessory buildings or structures shall be erected in the required front open space or side open space, except as may otherwise be provided in this section." Therefore, in practice, air conditioner condensers are allowed only in the rear yard and those seeking to install or replace a condenser in the side yard must seek a variance from the BZA --as many do.

For someone seeking to replace an air conditioner that is located in their side yard, it is a lengthier process than someone who is replacing an air conditioner in the rear yard. They must either apply and wait for a determination from the BZA or move the lines and construct a new pad (or both if denied), which may mean additional contractors, time and cost.

Article 1 of the Zoning Ordinance, section 1.06 states "The interpretation and application of the provisions in this Zoning Ordinance are the minimum requirements necessary to promote public health, morals, safety, comfort, convenience, or general welfare." Therefore, it is necessary to consider whether a gap exists in the current ordinances as far as protecting the health, safety and welfare of residents and whether zoning practices that hinder the quick replacement of air conditioning in hot summer months may be considered detrimental to health, safety and welfare.

At the request of the City Attorney, Planning Division staff has looked at ways to ensure all residents have access to a swift process for maintaining and replacing air conditioning units on single-family homes, including reviewing ordinances of surrounding communities.

As technology improvements have drastically reduced the amount of noise produced by a running condenser some cities are revising their position on side-yard condensers. Birmingham can look to nearby neighbors, Ferndale, Berkley and Plymouth as examples of communities who have done just that in recent years.

Thanks to improvements in compressor technology and a fan-blade shape, modern models generate only about 1/20<sup>th</sup> of the noise generated by many older units. According to Energy.gov, "the most efficient air conditioners use 30% to 50% less energy to produce the same amount of cooling as air conditioners made in the mid-1970s. Even if your air conditioner is only 10 years old you may save 20% to 40% of your cooling energy costs by replacing it with a newer, more efficient model...Improper unit location, lack of insulation, and improper duct installation can greatly diminish efficiency." A properly working air conditioner should run for 15 minutes at a time on warm days, no more than a couple of times within an hour.

Additionally, the Energy Star and EnergyGuide labelling programs assist consumers in choosing high efficiency models. From the energy.gov website: "Central air conditioners are rated according to their season energy efficiency ratio (SEER). SEER indicates the relative amount of energy needed to provide a specific cooling output. Many newer systems have SEER ratings as high as 26. This rating system was updated in 2015 and the lowest SEER rated unit manufacturers are now allowed to sell is 13. For comparison, older units average between 8 and 9.

### **City of Ferndale**

Ferndale updated their Zoning Ordinance in June of 2018 to allow certain features to project into required yard setbacks. This update included the following section related to placement of air conditioners:

"Equipment used for central air conditioning, heating or water filtration purposes and installed outside of single-family or two-family dwellings and their attached structures shall be located in the rear yard. The community development department may allow units to be located within the side yard in those instances where such location does not adversely impact an abutting dwelling, conditioned upon screening of the equipment with appropriate landscaping to reasonably conceal the equipment from view."

Ferndale Building staff confirmed that in practice, this means that when a permit to install air conditioning is applied for, the desired location of the unit is collected on the form. Staff then considers several factors in determining the appropriate location for the unit and is able to administratively approve side-yard ac installation when they determine it does not adversely impact an abutting dwelling. Factors they consider when making this determination are:

- 1) All applicable building codes.
- 2) A 5ft. setback from the lot line.
- 3) House foundation (and difficulty of cutting through slab)
- 4) Placement of furnace and length of lines needed to reach the rear yard; a drastic increase in the length of lines to reach the rear yard vs. side yard decreases efficiency of the unit.
- 5) New construction vs. existing; They will absolutely allow replacement of an existing side-yard ac on an existing house (and waive the 5ft setback under 'continuing the nonconformity,' if necessary, to allow replacement).

- 6) Required to screen all side-yard placed ac units from the street and the abutting property at least 4 inches above the unit itself.

Staff felt the ordinance was extremely successful and stated they have not had any issues since its adoption in 2018. It was especially successful at eliminating the requirement for applicants seeking to replace an existing nonconforming side-yard ac units to have to seek a variance from the Board of Zoning appeals. The Board of Zoning Appeals, while sympathetic to applicants, felt that they were not able to grant these variances under the specific criteria they are allowed to consider. Under the administrative process, staff can consider criteria the BZA cannot such as; cost, efficiency and timeliness of replacement. They have not had to send a side-yard ac application to the BZA since adopting the current ordinance.

### **City of Berkley**

In 2017, the ZBA heard a number of appeals related to generators in which they determined they would consider and regulate them as accessory structures. Though the zoning ordinance defined several types of Accessory Structure, neither air conditioning units or generators was included in the definitions. During the discussion, air conditioners were brought into the mix; because air conditioning units had not been defined as accessory structures, they were previously allowed to be placed in the side yard as long as the adjacent property owner signed off on a form.

The City of Berkley adopted a new ordinance to define and regulate exterior appliances in February of 2021. This new ordinance provides definitions for several types of appliance including 'Air Conditioning Unit.' It also includes the following related to location of Residential Air Conditioning Units;

"Air Conditioning Units may be permitted in the side yard under the following conditions:

- a. The unit must be at least 18 inches from side property line;
- b. The unit must be at least 12 feet from adjacent dwelling;
- c. The unit must be screened on at least three (3) sides by opaque fencing or landscaping, measuring at least four (4) feet in height from grade.
  1. The principal structure may be considered one side of screening.
  2. Screening must be provided from street view and facing the closest adjacent property.
  3. Chain link fencing is not permissible as a screening material for exterior appliances."

They also include a section to provide guidance for Non-Conforming Exterior Appliances:

"Non-conforming exterior appliances include appliances that were lawfully installed but are no longer in compliance with the provisions of this chapter. Non-conforming exterior appliances may be continued, maintained and replaced provided there is no increase or enlargement of the area occupied or devoted to such use. If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by less than 50 percent of its market value, the exterior appliance may be restored and its previous use continued. If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by 50 percent or more than 50 percent of its market value, then any restoration or new construction must comply with all current building and zoning codes."



**City of Plymouth**

Plymouth updated their ordinance in July of 2016. Previously they did not allow air conditioners to be installed in the side yard. Plymouth defines Accessory Use or Accessory and includes air conditioning units in the definition. Plymouth includes a table in their Zoning ordinance that specifies how much projection into each setback is permitted for each particular type of structure or feature. Air conditioning condensers are permitted to encroach 4ft into the side yard setback as well as the rear. As in Berkley and Ferndale, screening of the unit is required.

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.03, ACCESSORY STRUCTURE STANDARDS, TO ADD LANGUAGE TO PERMIT AIR CONDITIONING UNITS IN THE SIDE YARD UNDER CERTAIN CONDITIONS.

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### **Article 4, Section 4.03 – Accessory Structure Standards**

This Accessory Structure Standards section applies to the following districts:

**R1 R1A R2 R3 R4 R5 R6 R7 R8 TZ1**

The following accessory structure standards apply:

- A. Front and Side Open Space Limitations: No accessory buildings or structures shall be erected in the required front open space or side open space, except as may otherwise be provided in this section.
- B. Rear Open Space Limitations: Accessory buildings or structures may occupy a portion of the rear open space. They shall be at least 3 feet from any lot line, except as otherwise provided in this Article. If a lot has frontage on 2 streets so that the rear lot line abuts the street, accessory buildings or structures shall be set back from the rear lot line the same distance required in each two-page layout in [Article 2](#), as a front setback for lots fronting on the street. An accessory building is not permitted closer to a principal building on an adjoining lot than the sum of the minimum required side setbacks as determined in Section [4.74\(C\)](#).
- C. Corner Lots: On corner lots where a rear open space abuts a front or side open space, accessory buildings or structures on a corner lot shall have a minimum setback of 5 feet from the rear lot line.
- D. Setback from Principal Building: An accessory building or a swimming pool shall not be closer than 10 feet to the principal building located on the same lot.
- E. Satellite Antennas: Satellite antennas are permitted only in the rear open space. They are prohibited on the roof of any principal building or accessory building. They are limited to a maximum of 15 feet in height above grade and a minimum of 3 feet from the rear and side lot lines.
- F. Basketball Apparatus: A basketball apparatus may be placed within the required front open space and side open space of a single-family residential lot and only in conformance with the following conditions:
  - 1. No more than 1 basketball backboard, either garage or pole-mounted, may be located in the required front or side open space.
  - 2. A single basketball backboard may be mounted directly on the garage.

3. A single, pole-mounted backboard may be located only within the one-third of the required front open space or side open space nearest the dwelling and contiguous to the driveway.
- G. **Maximum Building Height:** The maximum eave height on all accessory structures shall not exceed 12 feet. The maximum building heights for accessory structures are as follows:
1. Gable, hip, gambrel, barrel or shed roofs:
    - a. R1A, R1: 15.5 feet to midpoint
    - b. R2: 15 feet to midpoint
    - c. R3: 14.5 feet to midpoint
    - d. The roof line on gambrel and barrel roofs may not project more than 2 feet past an imaginary plane drawn from the eave to the highest point on the roof. The highest point on an accessory structure with a shed roof must face the interior of the lot on which it is located.
  2. Flat roofs:
    - a. R1A, R1: 12 feet
    - b. R2: 12 feet
    - c. R3: 12 feet
  3. Mansard roofs:
    - a. R1A, R1: 15.5 feet to deck line
    - b. R2: 15 feet to deck line
    - c. R3 14.5 feet to deck line
- H. **Area:** The maximum area of the first floor of any accessory structure or accessory structures in combination shall not exceed 10% of the lot area or 600 square feet in R1 and R1A, 550 square feet in R2, or 500 square feet in R3, whichever is less. Outdoor living area is prohibited above the first story on any accessory structure.
- I. **Proportionality Between Accessory Structures and Principal Structures:** The height of an accessory structure must be lower than the height of the principal structure on the same lot. The total area of habitable space in an accessory structure must not exceed 75% of the total area of habitable space in the principal structure on the same lot.
- J. **Dormers:** Dormers on accessory structures are limited to 50% or less of the width of the roof per elevation or a 10 foot interior dimension, whichever is greater. Dormers may not exceed the height of the roofline from which they are projecting. Dormers are not permitted on accessory structures with gambrel, barrel, flat or mansard roofs.
- K. **Windows:** On elevations adjacent to abutting property lines, a maximum of 8 square feet of glazing area is permitted per elevation on the second level of an accessory structure if located less than 6 feet above the floor of the second level of the accessory structure. Unlimited glazing is permitted if located at least 6 feet above the floor of the second level of the accessory structure.
- L. **Exterior Staircases:** Above grade exterior staircases are prohibited on accessory structures.
- M. **Air Conditioning Units:** **Air conditioning units will not be included in lot coverage calculations and may be permitted in the side yard under the following conditions:**
- a) **Subject to all applicable codes and building permits.**
  - b) **The unit must be a minimum 3 ft. from the property line.**
  - c) **The unit must be screened from street view and the abutting property by privacy fence, landscaping or landscape fence.**

**d) Non-conforming air conditioning units may be continued, maintained and replaced provided the area occupied or devoted to such use is of similar size.**

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

\_\_\_\_\_  
Therese Longe, Mayor

\_\_\_\_\_  
Alex Bingham, City Clerk

## **Appendices**

Appendix 1: Ordinance No. 1231 City of Ferndale Oakland County, Michigan

Appendix 2: O-02-21 An Ordinance of the Council of the City of Berkley, Michigan

ORDINANCE NO. 1231

CITY OF FERNDALE  
 OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND ARTICLE I., SECTION 24-193 TO THE ZONING ORDINANCE, ORDINANCE NO. 1087, OF THE FERNDALE CODE OF ORDINANCES.

**THE CITY OF FERNDALE ORDAINS:**

**Part I.**

The City of Ferndale Zoning Ordinance, being Ordinance No. 1087, Article I., Section 24-193 is amended as follows:

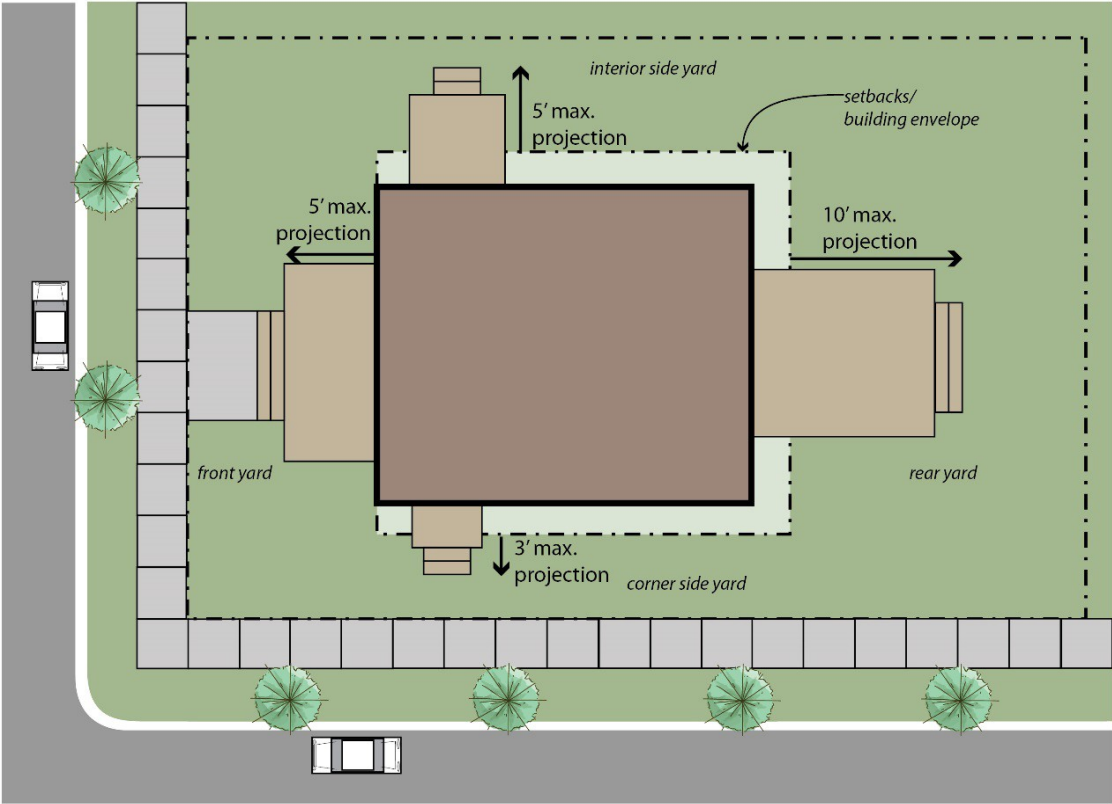
**Sec. 24-193. – Projections into yards.**

- a) Certain features may project into the required yard setbacks in accordance with the following table.

Permitted Projections into Required Yards				
Projection	Front Yard	Rear Yard	Interior Side Yard	Corner Side Yard
ADA Ramps and Structures	Permitted in any yard provided the location meets ADA and other applicable ordinances			
Architectural Features	3 ft.	3 ft.	2 in. per 1 ft. of setback	
Awnings and Canopies	3 ft.	3 ft.	5 ft.	5 ft.
Balconies	5 ft. from any lot line unless denied by the public right-of-way governing body			
Flagpoles	3 ft. from any lot line			
Gardens and Landscaping	Permitted in any yard			
Laundry Drying Equipment	Not permitted	5 ft. from any lot line		Not permitted



Light Standard, Ornamental	Permitted in any yard			
Mechanical equipment such as H <sub>2</sub> OAC	Not permitted	See (b) below	See (b) below	Not permitted
Paved Terraces and Decks	3 ft. from any lot line			
Roofed Porches, Stoops, Stairways and Steps	5 ft.	10 ft.	5 ft.	3 ft.
Window Wells	Not permitted	3 ft.	3 ft.	Not permitted
Window Air Conditioning Units	Not permitted	3 ft.	3 ft.	Not permitted



b) Equipment used for central air conditioning, heating or water filtration purposes and installed outside of single-family or two-family dwellings and their attached structures shall be located in the rear yard. The community development department may allow units to be located within the side yard in those instances where such location does not adversely impact an abutting dwelling, conditioned upon screening of the equipment with appropriate landscaping to reasonably conceal the equipment from view.

- c) Any walk, terrace, patio or other pavement or surface less than six inches above grade shall not be considered to be a structure and is permitted in any required yard. No more than 30 percent of the front yard area of any residentially zoned lot shall be paved.

**Part II. Savings Clause.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

**Part III. Severability.**

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

**Part IV. Repeal.**

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

**Part V. Effective Date; Publication.**

This ordinance shall become effective seven (7) days after publication.

MAD<sup>Y</sup>, PASS<sup>ED</sup> AND ADOPT<sup>ED</sup> B<sup>Y</sup> TH<sup>E</sup> CIT<sup>Y</sup> CO<sup>U</sup>NCIL OF TH<sup>E</sup> CIT<sup>Y</sup> OF F<sup>ER</sup>NDAL<sup>E</sup>,  
O<sup>A</sup>LAND CO<sup>U</sup>NT<sup>Y</sup>, MICHIGAN, THIS 11<sup>TH</sup> DA<sup>Y</sup> OF J<sup>U</sup>NE, 2018.

DA<sup>Y</sup>ID CO<sup>U</sup>LT<sup>U</sup>R, MA<sup>Y</sup>OR

MARN<sup>E</sup> MCGRATH, CIT<sup>Y</sup> CL<sup>E</sup>RK

Date of Adoption: 6/11/2018

Date of Publication: 6/13/2018

**CERTIFICATE OF ADOPTION**

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the 11<sup>th</sup> day of June, 2018.

MARN<sup>E</sup> MCGRATH, CIT<sup>Y</sup> CL<sup>E</sup>RK

CITY OF FERNDALE  
NOTICE OF ADOPTION  
ORDINANCE 1231

The City of Ferndale has adopted Ordinance No. 1231 amending Article I., Section 24-193 to the Ferndale Zoning Ordinance, Ordinance No. 1087. This Ordinance shall become effective seven (7) days after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK

**AN ORDINANCE**

**Of the Council of the City of Berkeley in  
Addition of Division 1.5 of Article III, General Provisions of Chapter 138 of the  
City of Berkeley Code of Ordinances  
to Define and Regulate Exterior Appliances  
and Provide Penalties for Violations**

**SECTION 2 OF ORDINANCE ORAN**

**SECTION 1.** Add new Division 1.5, Exterior Appliances, to Article III, General Provisions, in Chapter 138 of the Berkeley Code of Ordinances, as follows:

**Division 1.5. Exterior Appliances**

**Sec 138-71. Purpose**

The purpose of this division is to promote the public health, safety and welfare by regulating the manner and location of exterior appliances on residential and commercial properties in the city. For purposes of this division, the following definitions shall apply.

**Sec 138-72. - Definitions**

**Air Conditioning Unit:** The central air conditioning system located on the exterior of a building including a compressor, fan, condenser coil, evaporator coil and a refrigerant.

**Power Generator:** A stationary device, such as a reciprocating internal combustion engine or turbine that serves solely as a secondary source of mechanical or electrical power whenever the primary energy supply is disrupted or discontinued during power outages or natural disasters. A power generator may operate during power interruptions or during regularly scheduled testing.

**Exterior Appliance:** Mechanical equipment located on the exterior of a residential or commercial building. Such types of equipment shall include air conditioning condenser unit, power generators, and any noise producing mechanical system components located at the exterior of a building. Exterior appliances specific to swimming pools are subject to the regulations in Section 138-59.

**138-73. - Location**

Exterior appliances are prohibited from being located in the front yard or within a recorded easement or right-of-way that would prohibit, hinder or disrupt utilities, drainage, access, etc.

(a) Residential.

1. Power Generators and other exterior appliances shall be located in the rear yard at least six (6) feet from side property line.
2. Air Conditioning Units may be permitted in the side yard under the following conditions:
  - a. The unit must be at least 18 inches from side property line;
  - b. The unit must be at least 12 feet from adjacent dwelling;
  - c. The unit must be screened on at least three (3) sides by opaque fencing or landscaping, measuring at least four (4) feet in height from grade.
    1. The principal structure may be considered one side of screening.
    2. Screening must be provided from street view and facing the closest adjacent property.
    3. Chain link fencing is not permissible as a screening material for exterior appliances.

(b) Nonresidential.

1. *At Grade.*
  - a. Exterior appliances shall be at least five (5) feet from a property line.
  - b. Power Generators shall be enclosed in a sound-attenuating enclosure, if located adjacent to residential property.
  - c. Exterior appliances shall be screened on at least three (3) sides with opaque fencing or landscaping, measured at least four (4) feet in height from grade.
    1. The principal structure may be considered one side of screening.
    2. Screening must be provided from street view and facing the closest adjacent property.
    3. Chain link fencing is not permissible as a screening material for exterior appliances.
2. *Rooftop.*
  - a. Exterior appliances located on the rooftop of commercial buildings shall be screened so as to not be visible from street level. Screening materials shall be consistent with the color, materials, design and aesthetic of the building.

3. The Planning Commission may modify location of the exterior appliances on non-residential properties during site plan review, if the applicant can demonstrate an alternative location does not negatively impact adjacent properties, pedestrian or vehicular traffic.

**§ 138-74. – Restrictions.**

Generator testing shall be permitted Monday – Friday, 9:00am – 6:00pm.

**§ 138-75. – Non-conforming Exterior Appliances.**

Non-conforming exterior appliances include appliances that were lawfully installed but are no longer in compliance with the provisions of this chapter.

Non-conforming exterior appliances may be continued, maintained and replaced provided there is no increase or enlargement of the area occupied or devoted to such use.

If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by less than 50 percent of its market value, the exterior appliance may be restored and its previous use continued. If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by 50 percent or more than 50 percent of its market value, then any restoration or new construction must comply with all current building and zoning codes.

**§ 138-76. – Permits required.**

Permits are required for the installation of exterior appliances.

**§ 2 Severability Clause**

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

**§ 3 Penalty**

All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine or not more than \$500, and/or such other sanctions and remedies as prescribed in Article I of Chapter 82 of the Code of Ordinances.

**§ 4 Effective Date**

This Ordinance shall become effective 30 days following the date of adoption.



Ordinance 5 Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1992, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, February 1, 2021.

Passed on the Second Reading at the Regular City Council Meeting on Monday, March 1, 2021.

\_\_\_\_\_

Daniel Terbrack  
Mayor

Attest:

\_\_\_\_\_

Victoria Mitchell  
City Clerk

**DATE:** April 13, 2022

**TO:** Planning Board Members

**FROM:** Nicholas Dupuis, Planning Director

**SUBJECT:** Projections into Required Open Space – Ramps

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Article 4, Section 4.30(C) outlines projections into the required open space for all commercial, mixed-use and residential properties in the City. This issue arose during a recent permit review for an accessible ramp at a residence in Birmingham. After a review by the City Attorney, Building Official and Planning Director, the City saw an opportunity to expand the ordinance language to include provisions for accessible ramps that do not unintentionally inhibit persons in need as it relates to open space restrictions. The Zoning Ordinance defines open space as follows:

**Open Space, Front:** The open space extending the full width of the lot and of a depth equal to the required set-back measured horizontally at right angles to the front lot line which is unobstructed by any building or structure.

**Open Space, Rear:** The open space extending the full width of the lot and having a depth which is the minimum horizontal distance between the rear lot line and the rear building line.

**Open Space, Side:** The open space extending from the front open space to the rear open space and of a width equal to the required side setback measured horizontally at right angles to the side lot line which is unobstructed by any building or structure.



Please see the attached proposed ordinance amendments to Article 4, Section 4.30 of the Zoning Ordinance.

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 4, SECTION 4.30, OPEN SPACE STANDARDS, TO ADD LANGUAGE TO PERMIT ACCESIBILITY RAMPS IN THE REQUIRED OPEN SPACE.

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**Article 4, Section 4.30 – Open Space Standards**

This Open Space Standards section applies to the following districts:



The following open space standards apply:

- A. Minimum Open Space: The minimum open space shall be as per each two-page layout in Article 2.
- B. Maximum Lot Coverage: The maximum lot coverage shall be as per each two-page layout in Article 2.
- C. Projections into Required Open Space: Projections into the open spaces required by each two-page layout in Article 2, shall be permitted as follows:
  1. An unenclosed, covered or uncovered, concrete, masonry or wooden porch, deck and/or steps may project into a front open space for a maximum distance of 10 feet. The floor of a porch, deck or top step shall not be higher than the floor of the first story. This provision shall not reduce the required front set- back to less than 10 feet. Said porches and decks shall not project into the required side open space, except as provided elsewhere in this Article. Said porches and decks shall be restricted to 1 story in height.
  2. Roof overhangs, cornices, eaves, gutters, lintels, planter boxes, chimneys, bay windows and similar projections may extend or project into a required open space not more than 2 inches for each 1 foot of width of such required open space provided that such extensions may not project more than 2 feet into the front or rear open space, except as provided elsewhere in this Article.

3. Patios, terraces, porches or decks may not project into the required side open space except that steps leading to an entrance, patio, terrace, porch or deck may project into the required side open space. Such steps shall project not more than 3 inches for each 1 foot width of such required open space up to a maximum of 3 feet. Where the side open space is required by this chapter for parking or driveway purposes, the projection shall not reduce the drivable or usable area for those purposes to less than 7 feet in width.
4. Basement window wells may project into the required side open space and rear open space a maximum of 3 feet measured to the inside of the well opening. Basement window well structures may not project more than 8 inches above grade, excluding the height of an approved guard rail. Basement window wells that project into the required side open space or rear open space shall not exceed 6 feet in width and must be covered at grade with a suitable covering capable of sustaining the weight of not less than 500 pounds or be enclosed with a guard rail in accordance with the current applicable edition of the Michigan Residential Building Code or the Michigan Building Code.
5. A porch, deck and/or steps may project into a rear open space for a maximum distance of 15 feet. The floor of said porch, deck or top step shall not be higher than the floor of the first story. This provision shall not reduce the required rear setback to less than 15 feet. Said porches and decks shall not project into the required side open space, except as provided elsewhere in this Article. Said porches and decks shall be restricted to 1 story in height.
6. When no exterior staircase exists for an accessory structure, a bonus of 75 square feet of area is permitted in the accessory structure if used for an interior fixed and stationary staircase.
7. **Accessible ramps and structures are permitted to project into the front and rear open space the minimum distance required to accommodate the ramp or structure per the residential building code and to allow uninhibited access to a dwelling unit.**

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk

**BUILDING PLANNING**

**R311.7.12 Ships ladders.** Ships ladders shall not be used as an element of a means of egress. Ships ladders shall be permitted provided that a required means of egress stairway or ramp serves the same space at each adjoining level or where a means of egress is not required. The clear width at and below the handrails shall be not less than 20 inches.

**R311.7.12.1 Treads of ships ladders.** Treads shall have a depth of not less than 5 inches (127 mm). The tread shall be projected such that the total of the tread depth plus the nosing projection is not less than 8<sup>1</sup>/<sub>2</sub> inches (216 mm). The riser height shall be not more than 9<sup>1</sup>/<sub>2</sub> inches (241 mm).

**R311.7.12.2 Handrails of ships ladders.** Handrails shall be provided on both sides of ships ladders and shall comply with Sections R311.7.8.2 to R311.7.8.4. Handrail height shall be uniform, not less than 30 inches (762 mm) and not more than 34 inches (864 mm).

**R311.8 Ramps.**

**R311.8.1 Maximum slope.** Ramps serving the egress door required by Section R311.2 shall have a slope of not more than 1 unit vertical in 12 units horizontal (8.3-percent slope). All other ramps shall have a maximum slope of 1 unit vertical in 8 units horizontal (12.5 percent).

**Exception:** Where it is technically infeasible to comply because of site constraints, ramps shall have a slope of not more than 1 unit vertical in 8 units horizontal (12.5 percent).

**R311.8.2 Landings required.** There shall be a floor or landing at the top and bottom of each ramp, where doors open onto ramps, and where ramps change directions. The width of the landing perpendicular to the ramp slope shall be not less than 36 inches (914 mm).

**R311.8.3 Handrails required.** Handrails shall be provided on not less than one side of ramps exceeding a slope of one unit vertical in 12 units horizontal (8.33-percent slope).

**R311.8.3.1 Height.** Handrail height, measured above the finished surface of the ramp slope, shall be not less than 34 inches (864 mm) and not more than 38 inches (965 mm).

**R311.8.3.2 Grip size.** Handrails on ramps shall comply with Section R311.7.8.3.

**R311.8.3.3 Continuity.** Handrails where required on ramps shall be continuous for the full length of the ramp. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1<sup>1</sup>/<sub>2</sub> inches (38 mm) between the wall and the handrails.

### SECTION R312 GUARDS AND WINDOW FALL PROTECTION

**R312.1 Guards.** *Guards* shall be provided in accordance with Sections R312.1.1 through R312.1.4.

**R312.1.1 Where required.** *Guards* shall be located along open-sided walking surfaces, including stairs, ramps and

landings, that are located more than 30 inches (762 mm) measured vertically to the floor or *grade* below at any point within 36 inches (914 mm) horizontally to the edge of the open side. Insect screening shall not be considered as a *guard*.

**R312.1.2 Height.** Required *guards* at open-sided walking surfaces, including stairs, porches, balconies or landings, shall be not less than 36 inches (914 mm) in height as measured vertically above the adjacent walking surface or the line connecting the leading edges of the treads.

**Exceptions:**

1. *Guards* on the open sides of stairs shall have a height not less than 34 inches (864 mm) measured vertically from a line connecting the leading edges of the treads.
2. Where the top of the *guard* serves as a handrail on the open sides of stairs, the top of the *guard* shall be not less than 34 inches (864 mm) and not more than 38 inches (965 mm) as measured vertically from a line connecting the leading edges of the treads.

**R312.1.3 Opening limitations.** Required *guards* shall not have openings from the walking surface to the required *guard* height that allow passage of a sphere 4 inches (102 mm) in diameter.

**Exceptions:**

1. The triangular openings at the open side of stair, formed by the riser, tread and bottom rail of a *guard*, shall not allow passage of a sphere 6 inches (153 mm) in diameter.
2. *Guards* on the open side of stairs shall not have openings that allow passage of a sphere 4<sup>3</sup>/<sub>8</sub> inches (111 mm) in diameter.

**R312.1.4 Exterior plastic composite guards.** Plastic composite exterior *guards* shall comply with the requirements of Section R317.4.

**R312.2 Window fall protection.** Window fall protection shall be provided in accordance with Sections R312.2.1 and R312.2.2.

**R312.2.1 Window sills.** In dwelling units, where the top of the sill of an operable window opening is located less than 24 inches (610 mm) above the finished floor and greater than 72 inches (1829 mm) above the finished *grade* or other surface below on the exterior of the building, the operable window shall comply with one of the following:

1. Operable windows with openings that will not allow a 4-inch-diameter (102 mm) sphere to pass through the opening where the opening is in its largest opened position.
2. Operable windows that are provided with window fall prevention devices that comply with ASTM F2090.
3. Operable windows that are provided with window opening control devices that comply with Section R312.2.2.

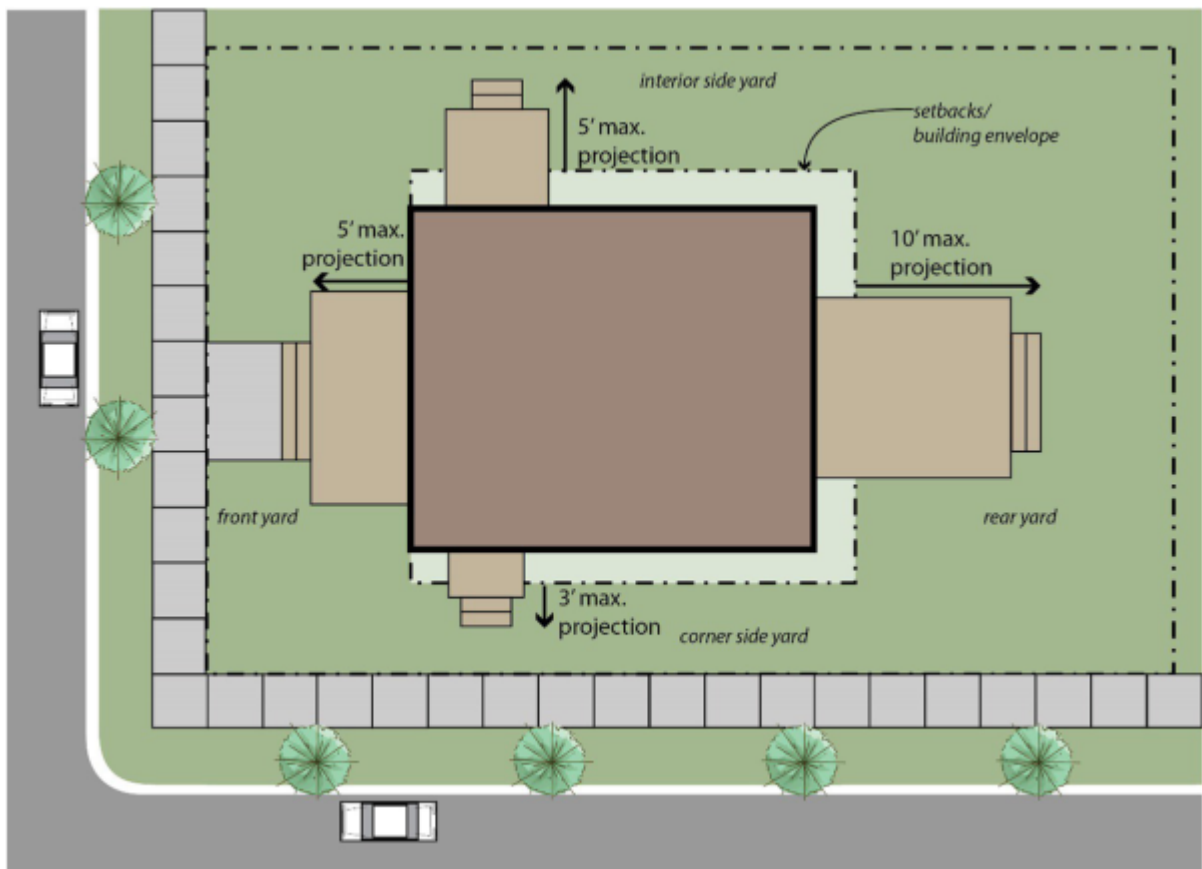
**R312.2.2 Window opening control devices.** Window opening control devices shall comply with ASTM F2090.



**Sec 24-193 Projections Into Yards**

- (a) Certain features may project into the required yard setbacks in accordance with the following table.

<b>Permitted Projections into Required Yards</b>				
Projection	Front Yard	Rear Yard	Interior Side Yard	Corner Side Yard
<b>ADA Ramps and Structures</b>	Permitted in any yard provided the location meets ADA and other applicable ordinances			
Architectural Features	3 ft.	3 ft.	2 in. per 1 ft. of setback	
Awnings and Canopies	3 ft.	3 ft.	5 ft.	5 ft.
Balconies	5 ft. from any lot line unless denied by the public right-of-way governing body			
Flagpoles	3 ft. from any lot line			
Gardens and Landscaping	Permitted in any yard			
Laundry Drying Equipment	Not permitted	5 ft. from any lot line	Not permitted	
Light Standard, Ornamental	Permitted in any yard			
Mechanical Equipment such as HVAC	Not Permitted	See (b) below	See below (b)	Not permitted
Paved Terraces and Decks	3 ft. from any lot line			
Unroofed Porches, Stoops, Stairways and Steps	5 ft.	10 ft.	5 ft.	3 ft.
Window Wells	Not permitted	3 ft.	3 ft.	Not permitted
Window Air Conditioning Units	Not permitted	3 ft.	3 ft.	Not permitted



- (b) Equipment used for central air conditioning, heating or water filtration purposes and installed outside of single-family or two-family dwellings and their attached structures shall be located in the rear yard. The community development department may allow units to be located within the side yard in those instances where such location does not adversely impact an abutting dwelling, conditioned upon screening of the equipment with appropriate landscaping to reasonably conceal the equipment from view.
- (c) Any walk, terrace, patio or other pavement or surface less than six inches above grade shall not be considered to be a structure and is permitted in any required yard. No more than 30 percent of the front yard area of any residentially zoned lot shall be paved.

(Ord. No. 1087, § 9.13, 3-8-10)

#### HISTORY

Amended by Ord. [1231 Pt. I](#) on 6/11/2018



## **MEMORANDUM**

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**Planning Division**

**DATE:** April 13, 2022

**TO:** Planning Board Members

**FROM:** Nicholas Dupuis, Planning Director

**SUBJECT:** Single Family Residential Front Yard Setbacks

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Article 2 of the Zoning Ordinance outlines setback requirements for the R1A, R1, R2 and R3 single-family zoning districts in the City of Birmingham. At present, the required minimum front yard setback is calculated by taking the average setback of homes within 200 ft. However, if there are no homes within 200 ft., then the required minimum front yard setback is 25 ft.

The City has received inquiries regarding the calculation of the minimum front yard setback and its application in the construction of new homes. In particular, the concern arises when calculating setbacks along shorter blocks, or for houses close to the corner where the corner house is oriented towards another street.

Please see the attached proposed ordinance amendments to Article 2, Sections 2.04, 2.06, 2.08 and 2.10 of the Zoning Ordinance.

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 2, SECTION 2.04, Table 2.04.2, SETBACKS, TO MODIFY THE MINIMUM FRONT YARD SETBACK REQUIREMENT.

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**2.04 R1A (Single-Family Residential) District Development Standards** 

TABLE 2.04.2 – Setbacks (see Figure 2.04.2)	
Minimum Front Yard Setback	Average <b>distance from the front lot line of homes on lots with frontage on the same side of the street</b> within 200 feet, if no homes within 200 feet, then 25 feet.
Minimum Rear Yard Setback	30 feet
Minimum Combined Front and Rear Setback	55 feet
Minimum Side Yard Setback	<ul style="list-style-type: none"><li>• 9 feet or 10% of total lot width whichever is larger for one side yard</li><li>• 14 feet or 25% of total lot width whichever is larger for both side yards</li><li>• no side yard shall be less than 5 feet</li></ul>

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 2, SECTION 2.06, Table 2.06.2, SETBACKS, TO MODIFY THE MINIMUM FRONT YARD SETBACK REQUIREMENT.

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**2.06 R1 (Single-Family Residential) District Development Standards** 

TABLE 2.06.2 – Setbacks (see Figure 2.06.2)	
Minimum Front Yard Setback	Average <b>distance from the front lot line of homes on lots with frontage on the same side of the street</b> within 200 feet, if no homes within 200 feet, then 25 feet.
Minimum Rear Yard Setback	30 feet
Minimum Combined Front and Rear Setback	55 feet
Minimum Side Yard Setback	<ul style="list-style-type: none"><li>• 9 feet or 10% of total lot width whichever is larger for one side yard</li><li>• 14 feet or 25% of total lot width whichever is larger for both side yards</li><li>• no side yard shall be less than 5 feet</li></ul>

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 2, SECTION 2.08, Table 2.08.2, SETBACKS, TO MODIFY THE MINIMUM FRONT YARD SETBACK REQUIREMENT.

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**2.08 R2 (Single-Family Residential) District Development Standards R2**

TABLE 2.08.2 – Setbacks (see Figure 2.08.2)	
Minimum Front Yard Setback	Average <b>distance from the front lot line of homes on lots with frontage on the same side of the street</b> within 200 feet, if no homes within 200 feet, then 25 feet.
Minimum Rear Yard Setback	30 feet
Minimum Combined Front and Rear Setback	55 feet
Minimum Side Yard Setback	<ul style="list-style-type: none"><li>• 9 feet or 10% of total lot width whichever is larger for one side yard</li><li>• 14 feet or 25% of total lot width whichever is larger for both side yards</li><li>• no side yard shall be less than 5 feet</li></ul>

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk



CITY OF BIRMINGHAM

ORDINANCE NO. \_\_\_\_\_

THE CITY OF BIRMINGHAM ORDAINS:

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF BIRMINGHAM:

TO AMEND ARTICLE 2, SECTION 2.10, Table 2.10.2, SETBACKS, TO MODIFY THE MINIMUM FRONT YARD SETBACK REQUIREMENT.

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**2.10 R3 (Single-Family Residential) District Development Standards **

TABLE 2.10.2 – Setbacks (see Figure 2.10.2)	
Minimum Front Yard Setback	Average <b>distance from the front lot line of homes on lots with frontage on the same side of the street</b> within 200 feet, if no homes within 200 feet, then 25 feet.
Minimum Rear Yard Setback	30 feet
Minimum Combined Front and Rear Setback	55 feet
Minimum Side Yard Setback	<ul style="list-style-type: none"><li>• 9 feet or 10% of total lot width whichever is larger for one side yard</li><li>• 14 feet or 25% of total lot width whichever is larger for both side yards</li><li>• No side yard shall be less than 5 feet</li></ul>

ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to become effective 7 days after publication.

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Therese Longe, Mayor

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Alex Bingham, City Clerk

DIVISION 17. - SCHEDULE OF REGULATIONS

Sec. 138-526. - Schedule of regulations.

Districts	Minimum Size of Lot per Unit		Maximum Height of Buildings	Front	Minimum Yard Setback			Maximum Percentage of Lot Coverage (Area of All Structures)	Minimum Floor Area Per Unit	
	Area in Square Feet (a)	Width in Feet			In Feet	At Least 1 Side Yard	Total of 2 Side Yards		Rear	With Base-ment
R-1A	12,000	100	40	25(b)	5(c, d)	15	20	35(e)	1,800	2,000
R-1B	8,800	80	30	25(b)	5(c, d)	15	20	35(e)	1,500	1,700
R-1C	6,600	<u>50</u>	30	25(b)	5(c, d)	15	20	35(e)	1,300	1,500
R-1D	4,400	40	30	25(b)	5(c, d)	15	35	35(e)	1,300	1,500
R-2	4,000	40	30	25(b)	5(c, d)	15	35	35	1,100	1,300
R-M	(e)	(e)	30	25(b)	10(g)	20(f)	35	35	(h)	(h)
R-M-H	(See article V, division 5, High-Rise Multiple-Family Residential District)									
Greenfield	(See article V, division 7, Greenfield District)									

Community centerpiece	(See article V, division 8, Community Centerpiece District)									
Office	—	—	30	10(j, k)	(m)	(m)	10	—	—	—
Downtown	—	—	—	(n)	(n)	(n)	10	—	—	—
Local business	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Twelve mile	—	—	40	(n)	(n)	(n)	10	—	—	—
Coolidge	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Gateway	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Woodward	—	—	50	10(j, k)	m	m	10	—	—	—
Eleven mile	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Industrial	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Parking	—	—	15		(See sections <u>138-496</u> —138-503)					
Cemetery	(See article V, <u>division 16</u> , Cemetery District)									

(Code 1981, § 33-108; Ord. No. O-10-97, § 1, 2-17-1997; Ord. No. O-21-97, § 1, 10-20-1997; Ord. No. O-09-01, § 4, 9-17-2001; Ord. No. O-09-07, § 2, 1-7-2008; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-08-08, § 1, 11-3-2008; Ord. No. O-14-20, § 1, 9-21-2020)

Sec. 138-527. - Notes to schedule of regulations.

- (a) In calculating the area of a lot that adjoins an alley, one-half the width of such alley abutting the lot shall be considered as part of such lot.
- (b) The front yard setback shall be 25 feet or equal to the average setback of the six adjacent buildings on the same block, whichever is greater.
- (c) Exterior side yards on corner lots:

When a rear yard abuts a rear yard, the exterior side yard setback shall not be less than ten feet.

When a rear yard abuts a side yard, the exterior side yard setback shall be as follows:

Distance from Rear Lot Line to Structure	Setback Required
0 to 5 feet	No structures permitted
5-35 feet	25 feet
Greater than 35 feet	10 feet

- (d) There shall be a distance of at least 15 feet between dwellings.
- (e) Maximum lot coverage for corner lots shall not exceed 45 percent. See chapter 138, article III, division 1. for additional requirements.
- (f) No multiple dwelling shall be erected on a lot or parcel of land that has an area of less than 10,000 square feet. The total number of rooms (other than kitchen and sanitary facilities) provided shall not be more than the area of the parcel in square feet divided by 500.

$$\text{Total number of rooms} = \text{Area of parcel} / 500$$

- (g) Every lot on which a multiple dwelling is erected shall be provided with a side yard on each side of such lot. Each side yard shall be increased by one-half foot for each ten feet or part thereof by which the length of the multiple dwelling exceeds 50 feet in overall dimension along the adjoining lot line.
- (h) The following minimum floor areas shall be met (the number of rooms listed is in addition to the kitchen and sanitary facilities):

Efficiency apartment: One-room—250 square feet minimum floor area per unit.

One-bedroom: Three-room—450 square feet minimum floor area per unit.

Two-bedroom: Four-room—600 square feet minimum floor area per unit.

Three-bedroom: Five-room—750 square feet minimum floor area per unit.

The maximum floor area for an efficiency apartment shall not exceed 300 square feet (in addition to the kitchen and sanitary facilities).

- (i) Reserved.
- (j) Parking shall be permitted in the front yard after approval of the parking plan layout and points of access by the planning commission. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines.
- (k) Front yard setbacks shall be ten feet or equal to the setback of the adjacent buildings, whichever is less.
- (l) Reserved.
- (m) No side yards are required along the interior side lot lines except as otherwise specified in the building code. On the exterior side yard that borders on a residential district, there shall be provided a setback of at least ten feet on the side or residential street.
- (n) No setback shall be permitted, unless the planning commission finds that the proposed setback shall be developed as a defined plaza, outside eating area, or other pedestrian space.

(Code 1981, §§ 33-109, 33-136(5); Ord. No. O-10-97, § 1, 2-17-1997; Ord. No. O-21-97, § 2, 10-20-1997; Ord. No. O-09-01, § 4, 9-17-2001; Ord. No. O-09-07, § 2, 1-7-2008; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-08-08, § 1, 11-3-2008; Ord. No. O-7-13, § 2, 12-16-2013)

Sec. 138-528. - Marihuana business regulations.

- (a) A marihuana business must front on a major thoroughfare with the primary ingress/egress onto a major thoroughfare.
- (b) The marihuana business must have all applicable state and local licenses and approvals to operate.
- (c) The property where the marihuana business will be located must be entirely within the boundaries of the city, and must not be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
- (d) Notwithstanding any other provision in the zoning ordinance, a marihuana business must operate within a fully enclosed building.
- (e) Pursuant to article XV of chapter 30 of the Berkley City Code, all marihuana business license approvals are subject to the following:
  - (1) Public notice requirements as outlined in section 30-806; and
  - (2) Site plan approval from the planning commission must be obtained prior to receiving license approval from the city council. Failure to do so will result in license denial as outlined in section 30-813.

(Ord. No. O-14-19, § 1, 12-16-2019)

Secs. 138-529, 138-530. - Reserved.

**Sec 24-43 Schedule Of Regulations**

<b>Residential Districts Schedule of Regulations</b>				
	<b>R-1</b>	R-2	R-3 <sup>c</sup>	R-4
<b>Maximum Height</b>				
Building height (feet)	25	35	45	60
<b>Lot Size (minimum unless otherwise noted)</b>				
Area (square feet)	4,000	4,000	4,000	4,000
Lot width (feet)	40	35	33	70
<b>Maximum Lot Coverage</b>				
Buildings	35%	35%	70%	50%
Minimum open space	40	40	-	-
<b>Maximum Density</b>				
Units per acre	12	15	35	80
<b>Setbacks (minimum unless otherwise noted)</b>				
Front (feet)	25 <sup>a</sup>	25 <sup>a</sup>	Max 10 <sup>a</sup>	25
Side (least) (feet) <sup>d</sup>	5	5	5	20
Side (total) (feet) <sup>d</sup>	10	10	10	40
Rear (feet)	35 <sup>b</sup>	35 <sup>b</sup>	20	20

**Notes:**

- (a) Where 50 percent or more of the frontage on the same block has been previously built upon, the front setback shall be plus or minus three feet from a line established by using the average depth of the front yards of the five adjacent lots in either direction within the same zoning district eliminating the greatest and least distances measured from the front edge of the house, attached garage or enclosed front porch.
- (b) The required rear setback for any lot of record less than 100 feet in depth may be reduced by the number of feet in difference between the depth of the lot and 100 feet.
- (c) Required minimum lot area, lot width and other regulations for single and two-family dwellings shall be the same in the R-3 districts as they are in the R-2 district.
- (d) On corner lots, there shall be a side setback for all buildings, structures and accessory buildings whenever there are any lots fronting on either side of the side street. The setback shall be equivalent to the required front setback of the side street or the average setback as determined in footnote a. above. In cases where residential lots are back-to-back, the side setback for principal buildings abutting a side street shall be a minimum of six feet.
- (e) A three-foot minimum side-yard setback for a second-floor addition over an existing non-conforming structure shall be permitted, if construction is fire-resistance rated according to the current Michigan Residential Code.

(Ord. No. 1087, § 3.03, 3-8-10)

HISTORY

Amended by Ord. [1201 Pt. I](#) on 1/8/2018

Amended by Ord. [1230 Pt. I](#) on 6/11/2018



Sec. 214. - Schedule of regulations.

	Height				Setbacks (feet)					Lot		
	Min.		Max.		Front	Sides (min.)			Rear	Area	Width	Coverage
	Stories	Ft.	Stories	Ft.		Min.	Least 1	Total 2				
R-1	-	-	2	27	25	4(B)	14	20	30	6,000	50(A)	35
R-2	-	-	2	27	25	4(B)	14	20	30	4,000	60	35
RM-1	-	-	4	45	10	10	20	20	40	3,000 per d.u.	-	35
RM-2	4	40	15	150	Equal to height of building					1,500 per d.u. (C)	-	20

- a. Does not apply to lots platted and of record prior to the passage of Ordinance No. 54, adopted March 3, 1952.
- b. If the building is located on a corner lot, the side yard setback on the street side shall be 15 feet.
- c. In RM-2 districts, any building five stories or higher, the minimum lot area per dwelling unit may be reduced by 50 square feet per unit for every story above the fourth level; however, in no case shall the minimum lot area per dwelling unit be less than 1000 square feet per dwelling unit.

## Sec. 2000. - Schedule of district regulations.

- (a) The area, height, bulk, and placement requirements for principal and accessory uses shall be as set forth below and following this schedule:

<i>District</i>	<i>Maximum Percent of Lot Coverage by all Buildings</i>	<i>Minimum Yard Setback From Lot Lines (in feet)</i>			<i>Maximum Building Height</i>		<i>Minimum Lot Size</i>		
		<i>Front Yard</i>	<i>Side Yards</i>		<i>Rear Yard</i>	<i>In Feet</i>	<i>In Stories</i>	<i>Area (in Square Feet)</i>	<i>Width (in feet)</i>
			<i>Least One</i>	<i>Total of Two</i>					
<b>R-1</b>	30	25	5	15	<u>35</u>	25	2½	6,000	50
<b>R-2</b>	30	25	5	15	<u>35</u>	25	2½	7,200	60
<b>R-3</b>	30	25	5	15	<u>35</u>	25	2½	8,400	70
<b>R-4</b>	25	25	<u>10</u>	30	<u>35</u>	25	2½	9,600	80
<b>R-5</b>	25	25	<u>10</u>	30	<u>35</u>	25	2½	15,000	100
RT	30	25	5	15	<u>35</u>	<u>35</u>	2½	3,200	54

RM-1	30	40	20	40	<u>35</u>	30	2½	1 BR: 2,250 2 BR: 3,000 3 BR: 3,750	
RM-2 1 or 2 stories	30	40	40	80	40	25	2	1 BR: 3,500 2 BR: 4,500 3 BR: 6,000 4 BR: 8,000	
More than 2 stories		50	50	50	50	100	8	1 BR: 1,000 2 BR: 2,000 3 BR: 5,000	
O-1*	—	25	5	20	30	<u>35</u>	2½	—	—
O-2*	—	25	<u>10</u>	20	30	<u>35</u>	2½	—	—
CBD	—	See following notes	<u>10</u>	<u>35</u> **	3**	—	—		
B-1	—	See following notes	<u>10</u>	<u>35</u>	3	—	—		

RP	—	50	20	40	50	50		40,000	<u>200</u>
RP	See following notes								
IND-1	—	25	15	40	20	50		10,000	80
IND-2	—	25	15	40	20	75		10,000	80

\*Minimum setback from residential district: 30 feet in O-1, 20 feet in O-2.

\*\*Except west side of Walnut Boulevard to the east right-of-way line of Pine Street, with an extension of said east right-of-way line of Pine Street, southerly from Second Street to First Street (properties currently zoned CBD, Central Business District). Reduced to 25 feet and two stories. See [section 2010](#).

(Ord. No. 2005-08, 8-22-2005)

**§ 770-34. One-Family Residential.**

- A. Purpose. This zone is composed in those areas of the City where the principal use is intended to be single-family detached dwellings. In addition to the dwellings permitted in this zone, there are certain nonresidential uses which may be compatible with and supportive of a medium-density residential environment and may be permitted either by right or through the special land use approval.
- B. Permitted uses.
- (1) A single-family detached dwelling, subject to the requirements set forth in § 770-23, Minimum floor area of dwelling units, and § 770-24, One-family dwelling unit standards.
  - (2) Public parks and playgrounds.
  - (3) Home occupations, subject to the requirements set forth in § 770-25, Home occupations.
  - (4) Public and private schools with curriculum equivalent to kindergarten through 12th grade.
  - (5) Publicly owned and operated museums or libraries.
  - (6) Accessory buildings and structures, subject to the requirements set forth in § 770-22, Accessory buildings.
  - (7) Family day-care homes as an accessory use and subject to the requirements set forth in § 770-26, Family day-care homes.
  - (8) Adult foster care family homes and small group homes with a capacity to receive six or fewer adults, child foster care family homes and child foster care family group homes subject to the conditions of the state regulatory agencies.
- C. Special land uses.
- (1) Group family day-care homes and day-care centers, when incorporated with an existing church or school, subject to the requirements set forth in § 770-59, Day-care facilities.
  - (2) Police and fire stations, public safety buildings, public utility buildings, telephone exchange buildings, electric transformer stations and gas regulator stations, but not including service or storage yards.
  - (3) Churches and other institutions for religious worship, subject to the requirements set forth in § 770-74, Churches and other institutions for religious worship.
  - (4) Bed-and-breakfast operations, subject to the requirements set forth in § 770-78, Bed-and-breakfast facilities.
  - (5) Residential accessory parking lots, subject to the requirements set forth in

§ 770-73, Residential accessory off-street parking lots.

- (6) Senior accessory housing subject to the requirements set forth in § 770-71 Senior accessory housing.
  - (7) Golf courses and country clubs.
  - (8) Cemeteries subject to the requirements set forth in § 770-50, Cemeteries.
  - (9) Community centers subject to the requirements set forth in § 770-51, Community centers.
  - (10) Those uses/parcels located in the One-Family (Single-Family) Residential Overlay District, subject to the requirements set forth in § 770-58, Single-Family Residential Overlay District.
  - (11) Reuse of school facilities when the existing principal building(s) are maintained, subject to the requirements set forth in § 770-87, Special redevelopment projects.
- D. Area and bulk regulations. The following minimum requirements shall apply to all permitted and special land uses unless a more restrictive requirement is provided for in this chapter:
- (1) Lot size. No lot shall be less than 6,000 square feet in area, unless otherwise modified by § 770-21B, Application of area, width and frontage regulations.
  - (2) Lot width. No interior lot shall be less than 50 feet in width, while a corner lot shall be no less than 60 feet in width unless otherwise modified by § 770-21B, Application of area, width and frontage regulations.
  - (3) Lot depth. No lot shall have a depth of less than 100 feet, unless otherwise modified by § 770-21B, Application of area, width and frontage regulations.
  - (4) Height. No principal building shall exceed a height of 30 feet.
  - (5) **Front yard setback.**
    - (a) Interior lot. All principal buildings shall be set back the greater of 25 feet or the average setback of adjacent dwellings, but shall not exceed 50 feet from the front property line.
    - (b) Corner lot. A front yard abutting the side street of a corner lot where the adjacent lot does not front upon said side street shall not be less than 10 feet in width; provided a lot with frontage of less than 50 feet in width may have the side yard abutting the street reduced to not less than eight feet. A front yard abutting the side street of a corner lot where the adjacent lot does front upon said side street shall maintain the minimum setbacks as required for an interior lot.
  - (6) Side yard setback.

- (a) For lots equal to or greater than 45 feet in width at the building line, all principal buildings shall be set back no less than five feet from the side property line. The total of the two side yard setbacks shall equal no less than 15 feet if no attached accessory building is provided in the side yard.
  - (b) For lots less than 45 feet in width at the building line, the side yard setback shall be a minimum of four feet. The total of the two side yard setbacks shall be no less than 12 feet if no attached accessory building is provided.
  - (c) For all lots without accessory buildings located in the side yard, an open area a minimum of eight feet in width unoccupied and unobstructed from the ground upward and suitable for a driveway shall be provided in one side yard.
- (7) Rear yard setback. All principal buildings shall be set back no less than 35 feet from the rear property line.
- (8) Lot coverage. On lots less than 6,000 square feet, the lot coverage of all buildings shall not exceed 35% of the site, provided that in no instance shall the total ground floor area of all buildings exceed 1,800 square feet. On lots equal to or larger than 6,000 square feet, the lot coverage of all buildings shall not exceed 30% of the site. **[Amended 5-20-2013 by Ord. No. 2013-08]**
- (9) Maximum floor area. No single-family residential structure shall exceed 3,500 square feet of usable floor area. **[Amended 4-21-2014 by Ord. No. 2014-04]**







**AGENDA**  
**REGULAR MEETING OF THE BIRMINGHAM PLANNING BOARD**

**WEDNESDAY APRIL 27, 2022**

**151 MARTIN ST., CITY COMMISSION ROOM 205, BIRMINGHAM MI \***

**\*\*\*\*\*7:30 pm\*\*\*\*\***

Michigan and Oakland County are at a substantial rate of COVID-19 community transmission. Per Occupational Safety and Health Administration (OSHA) mask guidance for areas of high or substantial community transmission levels, and to continue to protect essential government operations and functions, the city requires masks in City Hall for all employees, and for board and commission members. Masks are recommended for members of the public who attend city meetings. The city continues to provide KN-95 respirators for all in-person meeting attendees.

- A. Roll Call
- B. Review and Approval of the Minutes of the Regular Meeting of **April 13, 2022**
- C. Chairpersons' Comments
- D. Review of the Agenda
- E. Unfinished Business
- F. Rezoning Applications
  - 1. **Watkins/Brown Property (No address, Parcel Identification Number: 1936151027) – Request to rezone property from R7 to R2**
- G. Community Impact Studies
- H. Special Land Use Permits
  - 1. **588 S. Old Woodward – Phonedica – Request for small addition to rear of building**
- I. Site Plan & Design Reviews
  - 1. **588 S. Old Woodward – Phonedica – Request for small addition to rear of building**
  - 2. **294 E. Brown – Request for a new 4-story mixed-use building**
  - 3. **243 E. Merrill – La Strada – Request for expansion and a new outdoor dining platform**
- J. Study Session
- K. Miscellaneous Business and Communications:
  - 1. Pre-Application Discussions
  - 2. Communications
  - 3. Administrative Approval Correspondence
  - 4. Draft Agenda – **May 11, 2022**
  - 5. Action List - 2022
  - 6. Other Business
- L. Planning Division Action Items
  - 1. Staff Report on Previous Requests
  - 2. Additional Items from Tonight's Meeting
- M. Adjournment

\*Please note that board meetings will be conducted in person once again. Members of the public can attend in person at Birmingham City Hall OR may attend virtually at:

**Link to Access Virtual Meeting:** <https://zoom.us/j/111656967>

**Telephone Meeting Access:** 877-853-5247 US Toll-Free

**Meeting ID Code:** 111656967

NOTICE: Due to Building Security, public entrance during non-business hours is through the Police Department—Pierce St. Entrance only. Individuals with disabilities requiring assistance to enter the building should request aid via the intercom system at the parking lot entrance gate on Henrietta St.

Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing, or other assistance.

Las personas con incapacidad que requieren algún tipo de ayuda para la participación en esta sesión pública deben ponerse en contacto con la oficina del escribano de la ciudad en el número (248) 530-1800 o al (248) 644-5115 (para las personas con incapacidad auditiva) por lo menos un día antes de la reunión para solicitar ayuda a la movilidad, visual, auditiva, o de otras asistencias. (Title VI of the Civil Rights Act of 1964).

**AGENDA**  
**REGULAR MEETING OF THE BIRMINGHAM PLANNING BOARD**  
**WEDNESDAY MAY 11, 2022**  
**151 MARTIN ST., CITY COMMISSION ROOM 205, BIRMINGHAM MI \***  
**\*\*\*\*\*7:30 pm\*\*\*\*\***

Michigan and Oakland County are at a substantial rate of COVID-19 community transmission. Per Occupational Safety and Health Administration (OSHA) mask guidance for areas of high or substantial community transmission levels, and to continue to protect essential government operations and functions, the city requires masks in City Hall for all employees, and for board and commission members. Masks are recommended for members of the public who attend city meetings. The city continues to provide KN-95 respirators for all in-person meeting attendees.

- A. Roll Call
- B. Review and Approval of the Minutes of the Regular Meeting of **April 27, 2022**
- C. Chairpersons' Comments
- D. Review of the Agenda
- E. Unfinished Business
- F. Rezoning Applications
- G. Community Impact Studies
- H. Special Land Use Permits
- I. Site Plan & Design Reviews
- J. Study Session
  - 1. **Window Standards**
  - 2. **Impervious Surface**
- K. Miscellaneous Business and Communications:
  - 1. Pre-Application Discussions
  - 2. Communications
  - 3. Administrative Approval Correspondence
  - 4. Draft Agenda – **May 25, 2022**
  - 5. Action List - 2022
  - 6. Other Business
- L. Planning Division Action Items
  - 1. Staff Report on Previous Requests
  - 2. Additional Items from Tonight's Meeting
- M. Adjournment

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## Planning Board Action List – 2022 (Approved)

Topic	General Goals	City Commission Directive?	Quarter	Status	
				In Progress	Complete
2040 Master Plan	Adopt a new comprehensive master plan.	<input checked="" type="checkbox"/>	Ongoing	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Outdoor Dining	Study the Outdoor Dining Ordinance re: enclosures, expansions, etc.	<input checked="" type="checkbox"/>	1 <sup>st</sup> (January-March)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Window Standards (Glazing)	Update window standards to help support building renovation and the Energy Code requirements.	<input type="checkbox"/>	1 <sup>st</sup> (January-March)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Barrier-Free Ramps	Reduce unintentional restrictions on handicap ramps in the front setbacks.	<input type="checkbox"/>	2 <sup>nd</sup> (April-June)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Side Yard A/C	Update the ordinance to address issues with side yard a/c units.	<input type="checkbox"/>	2 <sup>nd</sup> (April-June)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Front Setback Rules	Consider revisions to the setback ordinances in R1-R3 to address 200 ft. calculations rule.	<input type="checkbox"/>	3 <sup>rd</sup> (July-September)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lighting Standards	Remove conflicting regulations regarding photometric plans.	<input type="checkbox"/>	3 <sup>rd</sup> (July-September)	<input type="checkbox"/>	<input type="checkbox"/>
Impervious Surface Definition	Clarify definition to promote the infiltration of storm water.	<input type="checkbox"/>	4 <sup>th</sup> (October-December)	<input type="checkbox"/>	<input type="checkbox"/>
Health Club/Studio Use	Consider allowing health/fitness type activities in more areas of the City.	<input type="checkbox"/>	4 <sup>th</sup> (October-December)	<input type="checkbox"/>	<input type="checkbox"/>

## Next Up...

Topic	General Goals	City Commission Directive?	Quarter	Status	
				In Progress	Complete
Dumpster Enclosures	Expand the materials permitted/not permitted in dumpster enclosures.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
Balcony/Terrace Enclosures	Clarify and add regulations for the enclosure of outdoor living space.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
Lot Combination Process	Review the process for lot combinations to add clarity to approval standards.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
Mixed Use Requirements	Consider changing the requirements for the stacking of mixed uses.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
Review Processes for Public Projects	Clarify review process for projects on public property.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
SLUP Application Process	Clarify the SLUP process in terms of the order of board/commission review.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
Retail Definition	Revisit the retail definition to address any concerns about first floor uses.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
Medical Marijuana & CBD	Update the Zoning Ordinance to help regulate Medical Marijuana and CBD through ordinance language.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
Sustainability Initiatives	Prepare a sustainability agenda to increase Birmingham's resilience.	<input type="checkbox"/>	-	<input type="checkbox"/>	<input type="checkbox"/>
Lighting Standards	Review lighting standards for residential districts to reduce light pollution and nuisance.	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Landscaping Standards	Consider amendments to permit synthetic planting materials.	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Social Districts	Study the state regulations and the City to help draw district boundaries.	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Food Trucks	Study the application of food trucks in the City in terms of locations, restrictions, etc.	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>