

Outdoor Dining – A Brief Overview of Building Code Requirements



While the use of outdoor dining is not new to the food and hospitality industry, it has become more prevalent recently and a necessity, in some cases, due to the ongoing Covid-19 pandemic.

This document has been developed by the State Building Codes Office, to assist stakeholders by providing a brief overview of some of the code requirements applicable to outdoor dining. This informational document does not contain all the code requirements that may apply to a given project. The local Building, Fire, Planning, Zoning and Engineering Departments, as applicable, as well as the local Virginia Department of Health should always be contacted prior to the creation of outdoor dining areas.

General

Although outdoor areas could be entirely exposed to the atmosphere and weather conditions, some could be located under a tent or other similar type of covering. For a more comprehensive list of code requirements applicable to tents, please refer to this informational document:

<https://www.dhcd.virginia.gov/sites/default/files/Docx/other/temporary-tents.pdf>

In creating new outdoor dining areas, several factors need to be considered. This document will focus on the following key items: location; means of egress; occupant load; accessibility; and mechanical, electrical and plumbing (MEP).

Location

The location of outdoor dining areas is of the utmost importance in the overall design; and it is directly related to several other factors discussed in more detail later in this document.

Outdoor dining areas could potentially be located anywhere from patios to decks, sidewalks, parking areas, lawns and other similar areas. Such placement, however, if not properly vetted, could negatively impact the existing features and minimum levels of safety, means of egress, accessibility, etc. required for the existing establishment.

While building permit applications for the creation of outdoor dining areas would be reviewed by the local Building Department; and compliance with the applicable building code requirements would be verified through the review and inspection process, in some instances, a building permit is not required. Even if a permit is not required, however, the project is not exempted from complying with the other applicable building code provisions [2015 Virginia Construction Code (VCC) Section 108.2].

It is strongly recommended to always contact the local Building Department before the creation of outdoor dining areas for a cursory review of the proposed design even if a building permit may not be required. Doing so could avoid potential future Notices of Violation, or other similar unpleasant occurrences.

Means of Egress and Occupant Load

- As indicated above, consideration must be given to the placement of tables and seating associated with outdoor dining areas so as to not negatively impact the existing means of egress. In accordance

with the VCC Sections 1001.2 and 1001.3 respectively, outdoor dining areas cannot reduce the number of exits, the minimum width, or the required capacity to less than what was already required by the code. The existing means of egress must be maintained in accordance with the applicable building code.

- Fences and other similar barriers: the installation of fences and other similar barriers is a common practice. The following items should be considered prior to such installations.
- Section 1028.5 of the VCC requires that the exit discharge must provide a direct and unobstructed access to a public way. The fences and other similar barriers must not impede the unobstructed path to the public way.
- If doors/gates are provided, as per VCC Sections 1006.2.1 and 1010.2.2.1, areas with an occupant load greater than 50, must be provided with two exit doors/gates which must swing in the direction of travel. Also, if the doors/gates are provided with a latch, it must be panic hardware or fire exit hardware in compliance with VCC Section 1010.1.10.
- The occupant load for outdoor areas must be assigned by the building official in accordance with the anticipated use. [VCC Section 1004.5]
 - For areas without fixed seats, a recommended way of determining the design occupant load would be VCC Section 1004.1.2. Said section allows for a maximum of 15 square feet of floor area per occupant.
 - For areas with fixed seating, the occupant load is normally determined based on the number of fixed seats installed therein; VCC Section 1004.4.
- In some instances the path of egress travel from outdoor dining areas passes through the building, as allowed by VCC Section 1004.5. In order to determine the minimum number and capacity of the required means of egress for such establishments, the occupant load assigned to the outdoor dining area must be added to the occupant load inside the building.

Notes:

- Once the occupant load has been determined in compliance with the applicable code provisions, during periods of restrictions imposed due to the ongoing Covid-19, the calculated occupant load must be reduced accordingly. Updates on the Covid-19 occupancy restrictions/allowances could be obtained here:
<https://www.virginia.gov/coronavirus/>
 - Social distancing guidelines should be adhered to at all times.
- Exit Signs and Means of Egress Illumination:
Section 1008.2 of the VCC requires the means of egress to be illuminated at all times. Likewise, Section 1013.1 requires exit signs to be installed in areas where more than one exit is required. These provisions should be paid close attention to, especially when dining areas are surrounded by fences or other similar barriers.

Accessibility

Another important factor to be considered when deciding the location of outdoor dining areas is the accessibility of existing building as well as the accessibility of proposed dining area.

- The existing accessible features, such as accessible route, accessible entrance, accessible means of egress, etc. cannot be negatively impacted by new outdoor dining areas.

- Section 1103.1 of the VCC does not differentiate between temporary or permanent spaces when it comes to accessibility. VCC Section 1104.2 requires an accessible route to be provided between all accessible buildings, accessible facilities, accessible elements and accessible spaces within a site. Section 1105.1 requires a minimum of 60% of all public entrances to be accessible; and Section 1009 requires accessible means of egress. Lastly, Section 1108.2.9.1 requires a minimum of 5%, but not less than one, of the dining surfaces to be accessible, and be distributed throughout the facility. As such, even if the indoor dining already contains sufficient accessible dining surfaces, at least one must be provided as part of the outdoor dining area.

Note: The 2015 VCC (mostly Chapter 11) specifies which features are required to be accessible and the 2009 ICC A117.1 contains the technical criteria to achieve compliance.

Mechanical

As implied by their designation, outdoor dining areas are not conditioned spaces as defined by the 2015 Virginia Energy Conservation Code. However, in some instances, heaters or air curtains are used in order to enhance the patrons' experience and/or aid during extreme weather conditions. The installation of said systems must be in compliance with the 2015 Virginia Mechanical Code, 2015 Virginia Fuel Gas Code and the manufacturer's specifications and installation instructions. Whilst the creation of outdoor areas may not always require a building permit, the installation of above systems, generally, would require a permit. Always contact the local Building Department before proceeding with an installation.

Electrical

As noted above, the means of egress must be illuminated; and depending upon the occupant load and/or travel distance, exit signs may be required. Oftentimes establishments choose to install hanging lights in order to enhance the dining experience.

All the electrical installations must comply with the 2014 National Electrical Code; and a building permit is generally required. Always contact the local Building Department before proceeding with an installation.

Plumbing

In accordance with the 2015 Virginia Plumbing Code (VPC), Table 403.1, Footnote d, the occupant load for seasonal outdoor seating must also be included when determining the minimum required number of plumbing facilities. In most cases, the outdoor dining areas are served by the existing plumbing facilities. Given the Covid-19 occupant load reductions, chances are that the existing facilities will be able to accommodate the outdoor dining occupants. Section 403.3.3 of the VPC limits the travel distance to the required toilet facilities to 500 feet and they cannot be located more than one story above, or below, the space required to be provided with facilities. Always contact the local Building Department to ensure that the number and location of existing plumbing facilities are adequate prior to project commencement.

Resources

[Local Building Department Contact Information](#)

[2015 Virginia Construction Code](#)

[2009 ICC A117.1](#)

[2015 Virginia Energy Conservation Code](#)

[2015 Virginia Mechanical Code](#)

[2015 Virginia Fuel Gas Code](#)

[2014 National Electrical Code](#) (must first register for free access)

[2015 Virginia Plumbing Code](#)