



APPEARANCE COMMISSION
Design Standards Review



The Raleigh Appearance Commission is pleased
to present its report on the Outdoor Dining
Ordinance

Summary

This report includes inventory, analysis, and recommendations of the Appearance Commission, for the assigned aspects of the outdoor seating ordinance that have visual, aesthetic and operational impacts to the urban environment and the public realm. The report is organized as follows:

- > Letter to Council
- > I. Introduction
 - A. Physical Delineation and the Use and Appearance of Stanchions
 - B. Design Standards for Outdoor Furnishings
 - C. Design Standards for Regulatory Signage
 - D. Impact of Physical Elements on Occupancy Calculations
- > II. Recommendations
- > III. Proposed Items for Additional Research

DATE: April 6, 2016

RE: Outdoor Dining Ordinance Recommendations

Dear City Council:

On behalf of the entire Appearance Commission, we would like to thank the City of Raleigh City Council and the Urban Design Center for engaging our commission in the development of these recommendations. It is important our community address these challenges as we continue to grow and emerge as a city that is recognized as one of the most desirable places to live in the country.

The role of the Appearance Commission has been dramatically affected by the new UDO, and the opportunity to play an integral part in the development of these recommendations that are intended to bring the community together and find common solutions to our "growing pains" was a welcomed challenge.

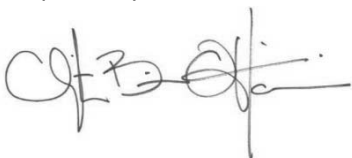
We would be remiss not to mention the involvement and dedication of not only our commission, but the commitment and investment of time and energy by staff (especially UDC and Zoning), local residents, and finally business owners (and media). There were hundreds of hours spent when you combine the eight (8) weeks of regularly scheduled meetings, time spent by staff doing research, and residents, business owners and commission members engaging in thoughtful discussions and debate outside of the weekly meetings.

We believe this has been a very inclusive process and one that allowed an opportunity for all who were interested and engaged to have a voice. The commission worked diligently to consider a holistic view of the proposed recommendations and consider the impacts our decisions would have on all involved.

We strived to find consensus. Sometimes we resorted to compromise, but our objective was to provide recommendations that would reflect the collective thinking borne out of the process and put forward ideas that all shareholders participated in, understood fully, believe is workable and can live with and actively support.

In closing, a topic that was revisited weekly, was the enforceability of any ordinances the City Council ultimately decides to enact. Without the ability, and the willingness to enforce the regulations, our time was spent in just getting to this point. On the flip side, we hope that Council appreciates and understands that the goals of these recommendations are not meant to be punitive. This is a challenging issue and in all situations we hope council leads by example and makes decisions that you believe are the best for our community at this time.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "C. Brian O'Haver". The signature is fluid and cursive, with a long horizontal stroke at the end.

C. Brian O'Haver, PLA
Chair, Raleigh Appearance Commission

Enc.

Enclosed is the final report of the Appearance Commission's response to Council's request for guidance on specific design components of the recently adopted Outdoor Seating Ordinance:

1. Physical Delineation and the Use and Appearance of Stanchions
2. Design Standards for Outdoor Furnishings
3. Design Standards for Regulatory Signage
4. Impact of Physical Elements on Occupancy Calculations

The Commission has provided recommendations for these items and has provided an assessment of their impact on other aspects of the ordinance, e.g. occupancy maximums, and items for additional council consideration for staff research.

A number of the commission members were a part of the community as the City began this journey 15 years ago when it committed to the conversion of Fayetteville Street into a lively, ceremonial, Main Street for Raleigh. The Fayetteville Street Renaissance recommended by the Downtown Livable Streets Plan was intended to "activate" the area and encourage usage. The aim of the investment in Fayetteville Street was to improve aesthetics, function and safety as well as create an economic catalyst for the region. We now find ourselves attempting to mediate a clear user conflict resulting from the success of this economic development project.

User conflicts are not new when the government attempts to manage the private use of public spaces while balancing the larger public good. There are countless precedents by which the government grants the use of public assets for private usage so long as there is a clear public purpose in doing so. In the case of outdoor seating, the clear public purpose is enhancing the economic vitality and livability of our public realm.

Numerous methods are available to the City to manage this balancing act for public and private interests. For that reason, the recommendations of the report assume a larger strategy including:

- **Increased importance of the permit application.** The permitting system has proven to be an effective tool in striking the balance between private goals and public purpose. It can be individually tailored to the specific set of circumstances for the particular area (e.g. stricter guidelines for Fayetteville Street). The intent is that all elements intended for inclusion in the outdoor seating area are included on the original permit application, regardless of intended seasonal use. These items include tables, chairs, physical delineation barriers (medallions, planters, pots, and stanchions, under special circumstances), umbrellas and other furniture accessories, signage, or any other item the City deems allowable in the permitted area. If we reinforce the importance of the permit, many of these user conflicts can be managed effectively and enforced equitably and consistently.

- **Performance measures.** Raleigh is a vibrant, diverse city that welcomes entrepreneurialism, innovation, and inclusion of the arts. The Commission does not believe a ‘one size fits all’ approach is the proper solution. In all cases a performance specification approach was used versus a prescriptive design specification approach. All of the recommendations provide design guidelines for each element and a method or procedure to verify that the element meets the standard. Conversely, when an applicant is unable to meet the outlined standards, an alternate method or procedure is provided. Resources are included in each section to show commercially available examples that meet the performance standards, but recommendations to sole-source a particular vendor(s) is not recommended.
- **Team review approach.** In most City of Raleigh permitting situations, multi-disciplinary teams are tasked with the review. Throughout our discussions we learned that the typical review process for Private Use of Public Spaces (PUPS) Ordinance does not follow this process. Although this last round of permits for Outdoor Dining were reviewed by the Urban Design Center in addition to Zoning, we believe that additional improvements could be made. Minor changes to the City’s review process and a formalized role of internal design staff could facilitate better outcomes. Additionally, a ‘design alternate’ review role for the Appearance Commission would allow the review of applications that do not technically meet the criteria to be administratively approved, but allow flexibility for entrepreneurial ingenuity, creativity and alternatives that meet the spirit of the criteria.
- **PUPS Urban Design Handbook.** Upon the approval to redesign the pedestrian mall, a multi-disciplinary team of City staff created guidelines to provide a framework for the private use of this new public space in Downtown. The PUPS document was an effective planning and permit review tool and should be updated and tied to the Outdoor Dining ordinance language. The recent update to the PUPS Handbook pulled out many relevant features and details to incorporate into the ordinance and in effect removed much of the language tying the ordinance to the PUPS handbook guidelines. As an example, the citywide Pushcart Vendor ordinance references back to the PUPS handbook within the Downtown limits. Removing reference to a handbook within the UDO may ease enforcement but does not allow flexibility as future conditions inevitably change in a prospering Downtown. Furthermore, periodic updates to the PUPS Handbook are recommended as our community will continue to evolve, and we should pursue the flexibility to adapt to these changes (i.e. current PUPS ordinance was updated in 2008).
- **Arms’ length from State Law.** Some requirements in the ordinance, such as the requirements to separate the outdoor seating with stanchions or to provide signage reminding patrons to keep alcohol within the designated area, were included in the ordinance to directly address the interpretation of North Carolina ABC laws. The Appearance Commission is not equipped to make a legal determination of the validity of state laws, but instead recommends removing requirements from our local ordinance that are intended to enforce state laws. As is the case of many local rules pertaining to the built environment, a reference is made to “meeting the standards of all applicable federal or state laws” but the individual requirements (ADA, North Carolina Food Code, etc) are not inserted into our local requirements.

We understand that these recommendations will be reviewed within the context of many stakeholder viewpoints and some may not agree with our proposed revisions to the ordinance(s). We believe that the city’s vision and goals for Fayetteville Street and other mixed use areas clearly indicate the City’s desire to support and foster a vibrant and well-used public realm. We understand and accept that vibrancy and activity will inherently have some challenging consequences.

We are pleased to provide any follow-up or additional analysis and recommendation upon request,

- Members of the Appearance Commission



I. Introduction

The Citywide Outdoor Seating Ordinance was first approved by City Council on August 4, 2015, and subsequently staff was directed to enforce, monitor, and evaluate the effectiveness of the new ordinance with a report back to Council at the end of a three-month pilot period.

At the November 3, 2015 Council meeting, staff reported the findings of the three-month pilot period evaluation and recommended text amendments to the ordinance to lend greater clarity to address the documented enforcement issues. At the meeting, Council directed specific action items to be evaluated by the Appearance Commission, Downtown Raleigh Alliance, or other staff teams.

In response to this request, the Appearance Commission, a 15 member body appointed by Council, created an eight member design review committee to focus on these items over an 8-week period in January and February of 2016. The Committee deliberated over the assigned tasks and noted their impacts to other areas of the ordinance. Additionally, the conversations identified a series of related, albeit out-of-scope items, which have been proposed for additional research.



Examples of existing outdoor signage, physical delineation elements, and occupancy situations



II. Recommendations

A. Physical Delineation and the Use and Appearance of Stanchions

Introduction

During the pilot period of the ordinance, community and Council concerns were raised about the negative visual impacts due to the use of varying design, style and material of stanchions by permit holders to define the permitted seating area. The requirement for defining outdoor seating area with barriers was included in the ordinance primarily to meet the NC ABC standards for alcohol service and to aid enforcement of the PUPs standards, especially during late hours of business operation.

Recommendations

The Commission supports the requirement that a permit holder provide visible delineation between the designated outdoor seating area and the remainder of the public sidewalk during business operating hours. In lieu of stanchions, we are suggesting the city supply ground-surface mounted, 'Medallions' to delineate the space. Different designs could be utilized for specific areas of the city (e.g. Fayetteville Street, Warehouse District, Cameron Village, etc.) and a Call-to-Artists could be utilized to generate unique ideas and build community consensus. Stanchions would be prohibited except under separate, special consideration.

Where vertical physical delineation is desired by the applicant (i.e. stanchions), whether it is for special events, evening use, or at all times of operation; the element would need to meet specific design criteria and the design specifications would need to be included in the permit application.

Physical Delineation Design Guidelines

Where vertical, physical delineation, in addition to City-issued medallions, is requested it should be:

- Made for commercial use
- Movable, durable, and weather-resistant
- Between 18"-42" above sidewalk
- Visually cohesive with adjacent architecture and other Outdoor Seating elements
- Designed to meet ADA Guidelines
- Well-maintained, cleaned regularly, and kept in good repair

Method or procedure to verify the vertical physical delineation element meets the standard

All permit applications should include a manufacturer cut-sheet (spec sheet) which clearly states that the product is intended for outdoor, commercial use; and provides additional information related to size and materials. Scaled drawings of the elements would need to be included in the permit application.

Method or process to monitor and/or ensure quality

Permit applications would be reviewed by a multi-disciplinary, multi-department team against the standards described herein.

Approval process for physical delineation elements

Staff may administratively approve the items with design services provided by Urban Design Center staff, should an applicant request it. Appeals or requests outside of the described standards would be referred to the Appearance Commission for review and recommendation to the appropriate city staff.

Applications should be submitted a minimum of 6 weeks prior to the expiration date of the current permit.

Sample Resources

<http://www.innfresco.co.uk/products/cafe-barriers-screens/>

<https://www.deansblinds.co.uk/catalogue/product/2/32/cafe-barriers-and-windbreaks-canvas/>

http://www.aelsolutions.com/commercial_outdoor_furniture/screens-planters-posts/

<http://sidewalkcafebarrier.com>



Physical delineation elements examples



Sidewalk medallion utilized by the City of Durham as a physical delineation element

B. Design Standards for Outdoor Furnishings

Introduction

In the absence of specific design standards for outdoor furnishings, permit holders have utilized furnishings of varying size, color, design, materials and dimensions in the permitted outdoor seating areas. Specifically on Fayetteville Street—the City’s ceremonial and signature street, which was designed with symmetrical dimensions and high-quality materials to render visual harmony of streetscape elements—the negative visual impacts of the use of random design of outdoor furnishings has been most significant.

Recommendations

Permitted outdoor furnishings, including seating, tables and chairs for dining, umbrellas and other accessories must be made of safe, sturdy, durable materials such as wrought iron, wood, steel, or cast aluminum.

Furniture material and scale should compliment the architectural character of the area, and should create a cohesive, compatible arrangement of elements; and should be movable and manufactured for outdoor commercial use. The use of small round or square tables seating 2-4 people will maximize the number of available tables and will provide flexibility in layouts and should be encouraged. All furniture should be maintained and cleaned regularly. Tablecloths should be brought indoors nightly and cleaned on a regular basis.

All elements must be consistent with permit requirements and standards. Tables and chairs may be shifted to accommodate larger dining parties (while still adhering to) occupancy maximums.

Furniture may be left out for public use during non-business hours; however, stacking of furniture for storage is prohibited on public property and is discouraged on private property that is readily visible from the right-of-way.

Outdoor Furnishings Design Guidelines

All outdoor furnishings should meet the following criteria (“prescriptive base standards”):

- Made for outdoor, commercial use (submit cut-sheet with application)
- Complimentary to the architecture and the character of the area
- Movable, durable, weather-resistant
- Match and/or be compatible within a grouping
- In scale with surrounding elements. Tables for 2-4 people are recommended and must not exceed a maximum dimension of 42” L x42” W x42” H (i.e. communal tables)
- Picnic tables are prohibited on Fayetteville Street.
- Communal tables with detached seating are permissible with additional design review and approval.
- All furniture should be well-maintained, cleaned regularly, and kept in good repair

Method or procedure to verify that outdoor furnishing elements meet the standard

All permit applications should include a manufacturer cut-sheet (spec sheet) which clearly states that the product is intended for outdoor, commercial use; and provides additional information related to size and materials. Scaled drawings of the elements would need to be included in the permit application.

Method or process to monitor and/or ensure quality

Permit applications would be reviewed by a multi-disciplinary, multi-department team against the standards described herein.

Approval process for outdoor furnishing elements

Staff may administratively approve the item with design services provided by Urban Design Center staff, should an applicant request it. Requests that vary from prescriptive base standards would be referred to the Appearance Commission for review. For example, 2-4 top tables that do not exceed the maximum dimensions (42") are permitted through administrative review. Oversized furniture and communal tables would be referred to the Appearance Commission for review and recommendation to the appropriate staff for all areas including Fayetteville Street.

Sample Resources

<http://www.akitchen.com/store/outdoor-dining.html>

<http://contract-patio-furniture.com/outdoor-cafe-furniture.asp?gclid=CIOH-zJHl1soCFUc2gQodF6YMsW>

<http://www.seatingexpert.com/Restaurant-Outdoor-Furniture.asp>

<http://www.restaurantfurniture.net/patio-furniture.html?src=adwords-&camp=Furniture&adg=Outdoor&keyword=%2Brestaurant%20%2Boutdoor%20%2Bfurniture&matchtype=b&device=c&producttargetid=&adtype=&gclid=CIDC-KPn1soCFQsvgQodyTAHVw>

<http://www.centralrestaurant.com/Outdoor+Furniture-sn125.html>

<http://www.webstaurantstore.com/45777/outdoor-restaurant-furniture.html>

<https://www.katom.com/cat/outdoor-furniture.html>

<http://www.restaurantfurniture4less.com/restaurant-patio-furniture-outdoor-furniture.html>

<http://www.outdoorrestaurantseating.com/>

<http://www.foodservicewarehouse.com/furniture/outdoor-furniture/c5543.aspx>

http://www.modaseating.com/Outdoor-Furniture_c183.html



Example outdoor restaurant furnishings

C. Design Standards for Regulatory Signage: Maximum Occupancy, 'Exit'

Introduction

Two types of signage are included in Outdoor Seating ordinance:

- "Exit" Signage (e.g. 'No Alcohol Beyond This Point')
- "Maximum Occupancy" Signage

The ordinance requires that "permit holders shall post visible signs at all exit points from the outdoor seating area to the public sidewalk reminding patrons that they cannot possess open containers of alcohol outside the public seating area". Insufficient guidance on size, location, and quality of signage has resulted in a visually cluttered environment that is inconsistent with the character and harmony of the built urban fabric, with the issue being most prominent along Fayetteville Street.

Additionally, permit holders are required to post signage declaring maximum occupancy on the outside of buildings. This signage is provided by the City and is standardized.

Recommendations

The use of "Exit" signage is not required by the City but may be considered, if included in the permit application, and is limited to:

Table-top signs,

Included in the menu, or

As part of other regulatory signage (e.g. the maximum occupancy signage).

The "Maximum Occupancy" signage will be supplied by the City and should be displayed on the interior face of an adjacent window to the outdoor seating area clearly visible from the exterior. If the permit holder does not have windows adjacent to the outdoor seating area, the "exit" signage may be attached to an exterior face of the building utilizing a weather resistant frame with building owner approval.

Outdoor Seating Signage Design Guidelines

All signage should meet the following guidelines:

- "Exit" Signage (e.g. 'No Alcohol Beyond This Point')
- Only one sign is allowed per table.
- If placed on a table, the sign should be durable and weather-resistant and meet all other standards
- Complimentary to the architecture and the character of the area
- Match and/or be compatible
- In scale with surrounding elements
- Size not to exceed one square foot

Method or procedure to verify that the signage elements meet the standard

All permit applications should include a sample of proposed signage indicating the size and materials.

Method or process to monitor and/or ensure quality

Permit applications would be reviewed by a multi-disciplinary, multi-department team against the standards described herein.

Acceptance process for element

Staff may administratively approve the item with design services provided by Urban Design Center staff, should an applicant request it. Appeals would be referred to the Appearance Commission for review and recommendation to the appropriate city staff.



Example of creative signage placement and material

D. Impact of Physical Elements on Occupancy Calculations

During discussions, it became evident that recommendations for physical components of the ordinance would have a direct impact on the occupancy requirements as currently written.

Currently the layout and use of the outdoor seating areas are controlled by a series of setback requirements, including minimum distances that must be kept from equipment (parking meters, light poles, etc), public furniture, and trees; and occupancy maximums are also defined by 15 square feet per person. This results in the creation of an 'eligible area' (a term used by staff which is not included in the ordinance) which is often disjointed, not visually cohesive, and confusing for patrons and pedestrians. As a reminder, the 15 square feet per person requirement was a threshold suggested during the initial Task Force meetings as a way to limit the "standing room only" concerns and was meant to be in effect during a test period to assess its performance. With the removal of the "standing room only" permission, some could argue the square footage requirement becomes somewhat moot.

The Commission has explored these issues and presents a list of considerations:

- The combination of physical barriers and occupancy maximums limit access to seats and create issues for mobility impaired customers and passers-by.
- The ordinance controls for "standing-room only" concerns and may not need additional constraints on seating occupancy. By meeting 'seating only' rules and setback requirements as already outlined in the ordinance, applicants are further encouraged to consider the scale of the outdoor furnishings they choose. As an alternate, the ordinance could allow for the layout of table and chairs as the controlling mechanism, providing that all setback requirements are met from the PUPS Handbook, and other applicable laws or standards are met (i.e. ADA clearances); OR
- An alteration to the method of applying the occupancy rules and further defining the "eligible area" in the ordinance may facilitate review and enforcement and could allow the current occupancy to regulation to remain as is.

III. Recommended for Additional Research

Throughout the research and dialogue of the committee meetings, many business owners and downtown residents expressed concerns with other aspects of the ordinance, its enforcement, and the interrelated nature of many of the requirements (e.g. it is difficult to have a conversation on the size, scale, and character of furniture without touching on its impacts to occupancy, storage requirements of the furniture, or costs associated with any newly proposed requirements).

For that reason, the Commission has documented some areas of additional research for Council to consider:

- The impact of the existing ordinance requirements on low-vision, sight-impaired, or wheelchair/scooter assisted members of our community
- Specific, more detailed requirements for the character of physical elements in historic districts and along Fayetteville Street
- Location of seating on narrow sidewalks (in reference to the "split seating" issue and minimal clearance requirements)
- Method of calculating occupancy requirements
- Setback requirements from permanent physical features (i.e. trees, lights, parking meters) as defined in the PUPS Handbook
- Setback requirements from trees when accompanied by ADA accessible tree grates
- City replacement of non-compliant ADA tree grates in areas where applicants are requesting PUPS permission.
- Advertisements, emblems, and 'signage' on furniture, accessories and stanchions
- The use of stanchions during large events (i.e. First Night, Bluegrass Festival, etc)
- Inclusion of art elements in outdoor seating areas
- Financial impacts of the recommendations herein
- 'Grandfathering' or 'grace period' to become compliant with any new recommendations
- Expansion beyond storefront to adjacent frontage with permission
- Use of Market, Exchange and City Plaza for outdoor dining
- Periodic updates to the PUPS Handbook

