

Article 3. Uses and Use Standards

3. No such use shall be operated without approval and, where appropriate, licensing by such agencies as the Virginia Department of Social Services, the Virginia Department of Health, and other such appropriate local, state and federal agencies which may have authority in a particular case.

Section 18-333 Medical Testing Facility

1. Any of the following approved uses under this section may, upon application and approval by the Town Manager, operate licensed temporary medical testing facilities during times of public health emergencies, as declared by local, state, or federal government agencies:
 - A. Churches and other places of worship.
 - B. Colleges and schools (private, elementary, middle, and high) of a noncommercial nature.
 - C. Public buildings and uses.
2. The Town Manager shall set conditions of the operation of temporary medical testing facilities, including (but not limited to) dates, hours of operation, and form of accepting appointments.

Section 18-334 Model Home Sales or Leasing Office/Trailer

1. Temporary residential sales offices and model homes may be located within a residential district as part of an ongoing residential development. Such offices and homes shall be removed or converted to a use permitted within the district when use as a sales office or a model home has ceased.
2. Model homes for new subdivisions shall only be occupied for residential habitation after all business activities have ceased. Upon the completion of the sale, the home shall comply with all applicable residential parking standards.

Section 18-335 Outdoor Dining

Outdoor dining may be permitted on a roof garden of a principal building or at ground level tables directly adjoining a building, subject to the following provisions:

1. General provisions:

- A. The property owner or property manager acting on behalf of a property owner must authorize any proposed outdoor dining located on their property.
- B. All structures, features, furnishings, and exterior modifications shall be subject to review by the Board of Architectural Review, except for restaurants located within buildings developed under [§18-236](#).
- C. All applications shall include to-scale plans showing the location of any outdoor dining furniture or structures.
- D. Permanent changes shall be subject to site plan control provisions under [§18-836](#).
- E. Outdoor dining furniture and equipment shall not block pedestrian access or interfere with ADA accessible routes to and from buildings and public facilities.
- F. Outdoor dining is subject to review by the building code official.

- G. Outdoor dining furniture and equipment shall not block fire entry or exits points, fire department connections (FDC), or any other required safety exits. Outdoor dining shall not be located in or block any designated fire lanes. Outdoor dining areas are subject to review by the Fairfax County Fire Marshal.
- H. Outdoor dining is not permitted within sixty (60) feet of properties which are both residentially zoned and utilized. Outdoor dining located between sixty (60) to seventy-five (75) feet of a residentially zoned property utilized for residential uses must meet the following criteria:
 - i. May not serve alcohol outside.
 - ii. May not have servers outside.
 - iii. May have no more than eight seats.
 - iv. Hours of operation ending at 7:00 p.m.
- I. All restaurants must adhere to the Town's noise ordinances set forth in §10-20.1 and §10-44 of the Town Code.
- J. Amplified sound, including music, is not permitted outdoors, except as otherwise permitted with a conditional use permit per §18-824.
- K. Permits for permanent and seasonal outdoor dining may be revoked if it is found any conditions listed in this chapter are not adhered to.

2. Permanent outdoor dining provisions:

- A. Outdoor dining with more than twelve (12) seats requires a conditional use permit and will be subject to §18-824 of this chapter.
 - i. In addition to criteria set forth under §18-824, adverse impacts to surrounding properties including, but not limited to, noise and lighting shall be considered by the Board of Zoning Appeals when reviewing an application for a conditional use permit.
 - ii. Hours of operation for outdoor dining shall be considered by the Board of Zoning Appeals when reviewing an application for a conditional use permit.
- B. Any permanent outdoor dining seats shall count towards the parking requirement for restaurants, subject to Article 5 of this chapter.
- C. Permanent outdoor dining shall be located on a permanent surface, such as a private sidewalk, deck or patio.
- D. Permanent outdoor dining shall include adequate protection from vehicles.

3. Seasonal outdoor dining provisions:

- A. Seasonal outdoor dining may be permitted in off-street parking spaces from April 1 to October 31. Otherwise §18-525 shall apply.
- B. Seasonal outdoor dining areas may only be active on:
 - i. Sundays from 10:00 a.m. to 9:00 p.m.
 - ii. Monday through Thursday from 9:00 a.m. to 9:00 p.m.
 - iii. Fridays from 9:00 a.m. to 9:30 p.m., and
 - iv. Saturdays from 10:00 a.m. to 9:30 p.m.

- C. Seasonal outdoor dining requires the issuance of a permit, which is to be reviewed and issued annually by the Zoning Administrator. The permit may be revoked if it is found any conditions listed in this chapter are not adhered to.
- D. Applicants will be required to provide written notice detailing seasonal outdoor dining plans to all business owners located within the same property/shopping center of the applicant's business. A permit may not be issued until thirty (30) days after abutting and adjacent business owners have been notified of the intention to apply for seasonal outdoor dining. A notarized affidavit shall be submitted with the application to verify that this notification requirement has been met.
- E. No more than twenty (20) percent of the required off-street parking spaces for a restaurant may be utilized for outdoor dining. If there are excess parking spaces above the minimum number of off-street parking spaces required per §18-531, those spaces may also be utilized for outdoor dining.
- F. Seasonal outdoor dining shall be protected from vehicular traffic with rigid barriers.
- G. Total number of seats shall not exceed the number of parking spaces utilized for outdoor dining, multiplied by eight (8).
- H. Outdoor dining cannot interfere with the use of a refuse storage area or the use of a loading space.
- I. Only non-permanent structures, such as tents, are allowed to take up said parking spaces and parking spaces must be able to be easily converted back to be used for parking.
- J. Parking lot striping shall not be changed without site plan approval.
- K. ADA spaces shall not be used or moved for outdoor dining without site plan approval.

Section 18-336 Outdoor Display and Sales

- 1. Regulations within this Chapter that govern outdoor storage and display shall apply in all districts and zones in which it is permitted.
- 2. Outdoor display is the display of products actively available for sale. Outdoor displays are only permitted in conjunction with an established business on the same lot and must be brought indoors when the associated business is closed.
- 3. Outdoor displays shall be allowed adjacent to a principal building wall and extending to a distance no greater than ten (10) feet from the wall. Such displays shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use sidewalks.
- 4. Seasonal displays and decoration not advertising a product, service or entertainment, displayed for a period not exceeding forty-five (45) consecutive days, shall be exempt from these provisions.

Section 18-337 Outdoor Storage

- 1. Raw materials, supplies and finished or semi-finished products may be stored in the open within the setback requirement for the area, if they are properly screened from streets and any abutting property by landscaping, or ornamental masonry walls.