



## **WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION**

### **Instructions for – Outdoor Dining Area/Outdoor Street Dining Area Application**

**\* MUST HOLD A CURRENT WVABCA LICENSE TO APPLY.**

#### **Outdoor Dining/Outdoor Street Dining Requirements:**

1. A current licensee meeting the fresh food requirements and in good standing who has a deck or patio already on its licensed floorplan or has a locally authorized and WVABCA approved sidewalk dining area on their licensed floorplan may continue providing food and alcohol on a deck, patio or sidewalk area, as authorized.
2. A licensee must submit to the municipal government or county commission, for approval, a revised floor plan and a written request to sell nonintoxicating beer, nonintoxicating craft beer, wine and/or liquor, subject to the commissioner's requirements in an approved outdoor area. No portion of a sidewalk may be used as part of an "outdoor dining" area, if the municipality offers a "sidewalk dining permit" and has an approved "sidewalk dining" ordinance. Please check with your municipality about any use of a "sidewalk" in their jurisdiction.
3. All licensees must submit an application for a new area or expanded area where the licensee will be conducting outdoor dining that is not already on its licensed floorplan via an Outdoor Dining/Outdoor Street Dining application on *WVABCA form (ABCA-192-FP.Ext & OD)*.
4. A licensee filing an application for an Outdoor Dining/Outdoor Street Dining permit will not be charged an additional fee.
5. Outdoor Dining/Outdoor Street Dining will remain valid as long as licensee is in good standing with the WVABCA or during the timeframe approved by municipality, county and the commissioner (For example, Summer or May to August).
6. Licensees must file a detailed floor plan of the outdoor dining area on the Outdoor Dining/Outdoor Street Dining application form (*ABCA-192-FP.Ext & OD*) including: a description of the outdoor dining area that is in close proximity (300 feet) of the licensed premises floor plan, measurements of the area, how the area will be cordoned off, how entry is to be made into the area, seating arrangement and measurements between tables, proximity to licensed establishment and any other pertinent information. For taverns and brewpubs for the purpose of this section, "close proximity" means an available area within 150 feet of the licensed premises with ingress and egress and line of sight from the licensed premises. The Commissioner determines what is in close proximity to the licensee's licensed premises but generally would not include a property across an open and operating public street or property not owned or leased by the licensee. For the purpose of this section, "close proximity" means an available area within 300 feet of the licensee's licensed premises with ingress and egress and line of sight from the licensed premises.
7. Licensees must provide a detailed description of how the licensee's staff/security will monitor the outdoor dining or outdoor street area with a clear line of sight from the licensee's premises to the area that must also provide for ingress and egress between the licensee's licensed premises and the area.
8. Nonintoxicating beer, nonintoxicating craft beer, flavored malt beverages, wine, liquor and nonalcoholic beverages may be sold, served and consumed in the outdoor dining area for an Outdoor Dining/Outdoor Street Dining, depending on the license held by the current licensee. If the licensee's current WVABCA allows for the on-premises sales of nonintoxicating beer, nonintoxicating craft beer, flavored malt beverages, wine, liquor and nonalcoholic beverages then the licensee will be able to sell these beverages on an Outdoor Dining/Outdoor Street dining license. Please read the instructions carefully.
9. Patrons may not carry any open container nonintoxicating beer, nonintoxicating craft beer or flavored malt beverages, wine or liquor, as applicable, off of any outdoor dining area or licensed premises.

10. The outdoor dining area must be cordoned off with some type of temporary fencing or barrier, for example a portable orange snow fence or a fence. The fencing or barrier must be approved by the WVABCA. The fencing or barrier must not impede ingress and egress of the public and any persons outside of the outdoor dining or street dining area.
11. The outdoor dining or outdoor street dining area may not in any manner detrimentally affect the peace or quietude of the surrounding community or residents.
12. Any violations of the West Virginia State Code or Legislative Rules may result in sanctions, including but not limited to monetary penalties, suspension, revocation of the outdoor dining/outdoor street dining area privilege.
13. All activities in the outdoor dining or street dining area must be conducted during normal operating hours. ***Any municipal ordinance requiring the cessation of noise or activities prior to closure must be observed.***
14. No live entertainment is permitted in the outdoor dining area. No live band, karaoke, or entertainers. Recorded music within local noise ordinances would be acceptable. (Note: Limited entertainment while dining [not a party or festival] e.g., solo instrumental, recorded music, or solo performer.)

**Note:** The WVABCA will conduct an independent investigation of any current licensee submitting this application to determine if the licensee is in good standing. A private outdoor dining/private outdoor street dining area is a privilege and as such, the WVABCA will determine if licensees warrant this privilege, and further the licensee actions if not appropriate may warrant suspension of any approval.

Mail to: West Virginia Alcohol Beverage Control  
Attn: Licensing Department  
900 Pennsylvania Avenue, 4<sup>th</sup> Floor  
Charleston, WV 25302



**WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION**  
**Outdoor Dining/Outdoor Street Dining Area Application**

County: \_\_\_\_\_ License Number: \_\_\_\_\_

FOR FISCAL YEAR: \_\_\_\_\_ TO \_\_\_\_\_

<b><u>Outdoor Dining</u></b>	<b><u>Outdoor Street Dining</u></b>
<input type="checkbox"/> <b><i>Outdoor Dining Area - Nonintoxicating Beer</i></b>	<input type="checkbox"/> <b><i>Outdoor Street Dining Area - Nonintoxicating Beer</i></b>
<b><u>OR</u></b>	<b><u>OR</u></b>
<input type="checkbox"/> <b><i>Private Wine Outdoor Dining Area - Nonintoxicating Beer &amp; Wine</i></b>	<input type="checkbox"/> <b><i>Private Wine Outdoor Street Dining Area - Nonintoxicating Beer &amp; Wine</i></b>
<b><u>OR</u></b>	<b><u>OR</u></b>
<input type="checkbox"/> <b><i>Private Outdoor Dining Area – Beer, Wine &amp; Liquor</i></b>	<input type="checkbox"/> <b><i>Private Outdoor Street Dining Area On-Premises Special Event – Beer, Wine &amp; Liquor</i></b>
<p>*Licensees may only sell nonintoxicating beer, wine or liquor if permitted to do by their current license.</p>	

Name of Establishment (DBA): \_\_\_\_\_

Phone number: \_\_\_\_\_ Email: \_\_\_\_\_

Licensee's or Manager's Name: \_\_\_\_\_

- (1) Distance to nearest residence: \_\_\_\_\_.
- (2) List complete information in the form of a diagram (on the second page) giving accurate dimension (measurements) of outdoor dining/outdoor street dining or contiguous outdoor dining area or street dining area, how an area is to be cordoned off (fenced, bound, or separated), how entry is to be made into the area, seating arrangement and measurements between tables, the areas proximity to licensed establishment and any other pertinent information.
- (3) Number of staff/security designated to oversee the Private Outdoor dining/Private Outdoor street dining area: \_\_\_\_\_.
- (4) Provide a detailed description of how the licensees' staff/security will monitor the outdoor dining or street dining area.

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- (5) Provide a menu or description of the freshly prepared food items to be served in the outdoor dining or street dining area. Please include the menu in paper format.
- (6) Provide proof of authorization from municipal government or county commission. Please attach this documentation with this form for approval. Must list the beginning and ending dates.

Must illustrate the exact area and measurements of the dining area for the “Private Outdoor dining/Private Outdoor street dining” in relation to the currently licensed establishment. The area must be in “close proximity” (within 300 feet) and a bound area, such as a parking lot or other outdoor area, which shall, for the temporary period, encompass the licensee’s licensed premises. Licensee must have a clear line of sight from the licensed premises to any outdoor dining or outdoor street dining area.

Keep one copy at the licensed premises. (Provide Dimensions and all Measurements as listed in instructions)



I, \_\_\_\_\_ (print) have received and read the requirements and attest to the fact that all preceding information is true and accurate and that all individuals and/or controlling members listed on the license are aware of the submission of an Outdoor Dining Area/Outdoor Street Dining area license application.

Licensee’s Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_