

# Regulating Outdoor Vending on Church Street



## Pop-up tents - Retail Only

Born out of a response from the Covid-19 pandemic, The Marketplace will allow retail establishments to have up to two, 10' x 10' pop-up tents outside their business from May 1 – October 31. Merchants must apply to the 'On the Bricks' Program annually (applications to go-live in March) and pay an annual fee of \$500/tent to host outside retail activity. \*With the exception of the annual Sidewalk Sale (always the second Thursday – Sunday of August). If your business would like to participate you must notify the Church Street Marketplace by April 1<sup>st</sup>. You can do this by filling out the form on [OpenGov](#). You will then receive a contract to sign and return with your tent agreement for the season, May 1 – October 31. Payment will be invoiced by the Marketplace Department and is due prior to the first day of outdoor vending.

Terms & Conditions:

1. **Applicants**
  - a. Retail vending on Church Street will be limited to retail businesses on the ground level
  - b. An Up-to-date Certificate of Insurance (COI) must be on file with the Church Street Marketplace Department.
  - c. Merchants can apply for a full-season pass for a tent for \$500/tent.

*\*Reminder, the annual Sidewalk Sale (always the second Thursday – Sunday of August) is the exception to purchasing a pass. Tents are allowed without a pass for this event.*

2. **Tent Appearance**
  - a. White or black (solid color) 10' x 10' tent
  - b. Maximum of two 10' x 10' tents if storefront can accommodate (or 1, 10' x 20').
  - c. Tent(s) must remain within the business footprint.
  - d. If not white or black, merchants can request a variance from Marketplace staff for an alternative color:
    - i. Color must match storefront or logo of business applying
  - e. All sides open with no obstructed view. Side walls on tent(s) are not permitted to retain lines of sight

- f. Branding on tent is permissible, business name and/or logo
3. **Tent Location and Logistics**
- a. Must be set-up every day and taken in every night
  - b. No cinder block weights. Sand bags or [circular tent weights](#) only
  - c. Tent(s) must be weighted with 50lbs weights on at least two legs (one front and one back)
  - d. Tent(s) must be rated for at least 30 mph winds.
  - e. Tents must remain outside of the nine-foot pedestrian walkway directly in-front of your doorway and will remain at least six-feet away from the center granite line
  - f. Tents may not be allowed during certain events and festivals including the following dates: Marathon (last Sunday in May), Festival of Fools (First Friday – Sunday in August). Businesses will be notified within 15-days if tents cannot be put out due to an event, festival, parade or maintenance work.
  - g. Tents are allowed from May 1<sup>st</sup> – October 31<sup>st</sup>.
4. **Display Space**
- a. Carpets and plants allowed
  - b. Items cannot spill out of boundaries of tent
  - c. No individual music is allowed

## **Sidewalk Cafe – Restaurants Only**

1. **APPROVAL:**

Owner may construct, maintain, and operate at their own expense a dining area on the public right-of-way for the on-premise consumption of food and beverage (herein referred to as the premises) at the address listed above and in compliance with all right of way regulations.

2. **DURATION:**

The Commission grants Owner the right to place the sidewalk café on the public right-of-way for a term commencing on **May 1 of this year** and terminating on **April 30 of the next year** or sooner as provided herein. The Commission will endeavor to guarantee that the sidewalk café area will be open for the Owner to set up the café. However, the Owner understands that there may be times when the café area is not available due to construction or parades. Commission will not refund the license fees for any such occurrence.

3. **MAINTENANCE OF PREMISES:**

- a. Owner shall during the entire period that the premise exists on the public right-of-way maintain the premises in the same or comparable appearance and condition to that approved by the Commission. No change to the approved condition shall be made without prior written approval (with the new plan attached) by the Commission.

- b. Owner that does not provide table service must provide a trash container complementary in appearance to the café, and the litter may not be subsequently dumped into the Marketplace litter containers.
- c. Owner shall ensure that no tables; chairs, other temporary or permanent apparatus of structures are placed over Burlington Electric Company vault covers on the premises.
- d. Restaurateurs are required to pick up and sweep debris on the Marketplace created by the use of the sidewalk café. If the Commission is required to contract for special maintenance functions because of the sidewalk café, it will be at operator's expense.
- e. Owners are responsible for maintaining the furniture and any other improvements related to the sidewalk café in the same or comparable condition to that originally approved by the Commission. The Commission, may, after reasonable notice, perform such repairs at the owner's expense.
- f. Owners are responsible for locking up and securing furniture during non-operational hours with a cable and lock to ensure furniture is not stolen or moved.
- g. Owners shall provide a barrier around their sidewalk café, if they are serving alcohol or not. This barrier can be stanchions, rope line, moveable planters or similar. It cannot be permanent and must be broken down each day at closing. This will ensure café furniture does not move outside of the café boundaries keeping fire and pedestrian lanes accessible.

#### 4. **HOURS OF OPERATION**

- a. Owner may operate the commercial use of the premises, weather permitting, 365 days per year. For businesses serving alcohol, owner must request from the Local Control Subcommittee (via the Clerk/Treasurer's Office) ability to serve alcohol 365 days per year.
- b. Owner will not set up café in the morning before 10:30 a.m., Monday through Saturday during commercial truck deliveries on the Church Street Marketplace.
- c. Owner will at the end of each day have the café swept and furniture stacked no later than 3:00 a.m. The time from 3:00 a.m. to 10:30 a.m., will be the time available for Marketplace Maintenance to clean the street.
- d. Owner may store material necessary for the operation of the out-of-doors dining area on the premises during non-operating hours if commercial use of the premises occurs all seven days of the week and preliminary activity (for example, cleaning and setting up) begins no later than 10:30 a.m. each day. Materials stored on the premises must be set up every day weather permitting.

#### 5. **BOUNDARIES**

By May 1 of each year, Marketplace staff will mark Owners outdoor café boundaries with paint on the bricks. Owner agrees to be responsible for training and managing staff to set up cafes daily, within the marked boundaries. If, after repeated requests by the Marketplace Department, Owner is unable to maintain the cafe within the marked boundaries, the Church Street Marketplace Commission may request the Owner to attend a future Commission meeting to review their training and management program for set up and determine if further recommendations are required to the City of Burlington and Local Control Subcommittee. If the Owner is serving alcohol in the outdoor café space, Owner understands that expansion of an outdoor café, without the approval of the Church Street Marketplace Commission and Local Control Subcommittee, jeopardizes the Owner's City-issued liquor license. During a festival or parade on Church Street, owner agrees to reduce its boundaries as is needed for the duration of the event.

## 6. **CAFÉ EXPANSIONS**

Outdoor cafes may expand per the Outdoor Café Expansion Policy, approved by the Church Street Marketplace Commission.

- Cafés may expand no more than 30% or 8 feet across an adjoining retail store's frontage, north and south, whichever is less
- Cafes may not block the front door of an adjoining retail store.
- Retailers have priority and are given the right to deny any cafe expansion in front of their store front. Since the retailer is losing exposure, they should be able to be able to control the space in front of their store.
- Outdoor café expansions may not block the nine foot right of way except during the Discover Jazz Festival; the exception is being made for those restaurants providing entertainment during the festival, as they are giving up table space and revenue, in order to promote music and performances.

### REQUIREMENTS:

- All Café Expansions must be approved by the adjacent retail business and/or landlord if business is vacant in writing (email or letter) and submitted to the Marketplace Director
- Retailers have the option to receive from the restaurant a co-marketing program (at restaurant/bar expense) held during the café expansion, approved by affected retail business. This can include flyers, fashion shows, tent cards, mailings, etc.
- Expansion requires approval by the Marketplace Director at least 60 days in advance of the event. For greater efficiency and predictability, restaurants may group all of their expansion dates for a calendar year into one request for approval from the Commission.
- Requests are then sent to Local Control Subcommittee for their final approval.