



PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction

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General Guidance for Outdoor Seating Areas

Prior to establishing outdoor seating areas, restaurants should be reminded that, depending on the specifics of how the outdoor seating area is set up, a building permit may be required from either the State Department for Housing Buildings and Construction (DHBC) or a local building official.

For restaurants seeking to utilize tents and/or canopies to provide shelter for outdoor seating areas, permits are required for tents exceeding 400 square feet, or canopies exceeding 700 square feet. Restaurants must seek the permit prior to erecting and utilizing the tent/canopy. Generally speaking, a tent has sides while a canopy does not. Restaurants should be reminded that since these structures are to be utilized for outdoor seating only, no cooking shall take place within the tent or canopy as allowed by Section 432.14.14.5 of the Kentucky Building Code.

If your tent or canopy requires a permit, whether you contact the state DHBC or your local inspector for the permit, is determined by the maximum calculated occupant load of the structure. For seating areas, the occupant load is calculated at one person per 15 square feet of floor area. If there is a local building inspection department, the local building official will have jurisdiction for these temporary structures up to a maximum occupant load of 100 persons. If over 100 occupants, the Department of Housing, Buildings and Construction shall have jurisdiction for permitting and inspections. Please note: some local building departments have been granted additional inspection responsibilities, and will retain jurisdiction for temporary structures, even where the calculated occupant load exceeds 100 persons. When in doubt, please contact the local building inspection department or DHBC to help determine jurisdiction. If there is no local building official, then jurisdiction will fall to DHBC, regardless of occupant load.

Permits will not be required for outdoor open-air seating areas unless the outdoor seating area is enclosed with fencing/gates, or when the path of egress travel from the outdoor seating area is required to pass through the building to exit the area.

This document is meant to offer general guidance only. For detailed requirements, please refer to Section 432 of the 2018 Kentucky Building Code, which can be accessed online at dhbc.ky.gov. The permit application can also be accessed at dhbc.ky.gov.

For further information, please contact the Department of Housing, Buildings and Construction, Division of Building Code Enforcement at (502) 573-0373.

PLUMBING: please note that each restaurant's sanitary facilities were designed and approved based off a particular occupant capacity and number of fixtures and restaurants should be mindful of remaining compliant with that capacity. For questions regarding plumbing fixtures, please contact the Department of Housing, Buildings and Construction, Division of Plumbing at (502) 573-0397.