

## ENCROACHMENT PERMITS

### Sidewalk Cafe

1. Regulated under CCMC Section 6820-6833. Encroachment permit applications to be evaluated by the Chief of Planning as well as Engineering Division.
2. Permittee shall maintain liability insurance in the amount of \$1,000,000, naming the City of Concord as additional insured.
3. Permittee must also have City business license and workers' compensation insurance.
4. Application to include detailed scale drawing of area to be covered by permit. It must include all structures, poles, signs, news racks or any obstruction in the area to be permitted. Refer to municipal code and/or attached sketches for limits of area permitted to be utilized for sidewalk cafe.
5. Application shall also show times and days of proposed operations. If cafe will be open after sunset, show a detail of lighting. Indicate if umbrellas will be used. State indoor seating capacity of the restaurant.

## **VI 8 (2) SIDEWALK CAFES**

**Section 6820. Purpose and Findings.** The purpose of this chapter is to encourage sidewalk cafes and set forth the conditions under which a sidewalk cafe may be permitted to operate on a public sidewalk in specified areas of the City. Seasonal use of the sidewalks adjoining food-serving establishments with the limitations set forth in this Chapter will have a de minimis impact on parking and traffic while encouraging revitalization of the core of downtown Concord.  
(Ord. 94-9)

**Section 6821. Sidewalk Cafe Defined.** A sidewalk cafe is any group of tables and chairs and authorized decorative and accessory devices situated and maintained upon the public sidewalk for use in connection with the consumption of food and beverages sold to the public from or in an adjoining indoor food-serving establishment. Only the sale of food and beverages is allowed at sidewalk cafes.  
(Ord. 94-9)

**Section 6822. Conditional Encroachment Permit Required.** A sidewalk cafe may be permitted only by approval of a conditional encroachment permit to be issued by the Chief of Planning in conjunction with the Director of Public Works. The Director of Public Works and the Chief of Planning may impose such conditions as they deem necessary to assure the proposed operation meets the requirements of this Chapter and to maintain the public safety and welfare. In considering an application for a conditional encroachment permit for a sidewalk cafe, the Director of Public Works shall submit and consider comments from the Planning Division.  
(Ord. 94-9)

**Section 6823. Permissible Locations.** A sidewalk cafe may be permitted only on commercially zoned property and contiguous public right-of-way located within the boundaries shown in Exhibit "A" and made a part of this section by reference.  
(Ord. 94-9)

**Section 6824. Allowable Configurations.** A sidewalk cafe may be established by using one or more of the following configurations subject to approval by the Chief of Planning in conjunction with the Director of Public Works and taking into consideration the configurations of other established and potential sidewalk cafes within the same City block:  
(Ord. 94-9)

**A. Abutting the Storefront.** A sidewalk cafe may be located on the public sidewalk immediately adjacent to and abutting the associated indoor food-serving establishment provided that the area in which the sidewalk cafe is located extends no farther along the sidewalk length than the actual sidewalk frontage of the operating indoor food-serving establishment;  
(Ord. 94-9)

**B. Abutting the Curbside.** A sidewalk cafe may be located on the public sidewalk at least three (3) feet from the face of the curb provided that the area in which the sidewalk cafe is located extends no farther along the sidewalk length than the actual sidewalk frontage of the operating indoor food-serving establishment;  
(Ord. 94-9)

**C. Corner Parcels.** If the indoor food-serving establishment is located on a corner parcel, the sidewalk cafe may also utilize the adjacent sidewalk along the side of the indoor food-serving establishment in the configurations set forth in Subsections A and B.  
(Ord. 94-9)

**Section 6825. Sidewalk Clearances and Furniture Location Requirements.** Appropriate setbacks and clearances for a sidewalk cafe shall be determined by the Chief of Planning in conjunction with the Director of Public Works in accordance with the following standards.  
(Ord. 94-9)

A. A sidewalk cafe may be permitted only where the sidewalk is wide enough to accommodate both the usual pedestrian traffic in the area and the operation of the proposed cafe. A minimum width of six (6) feet of sidewalk shall be kept clear and unimpeded for pedestrian traffic if the pedestrian passageway abuts the face of curb. Elsewhere, a five (5) foot wide pedestrian passageway shall be maintained unless a wider clearance is deemed necessary for public safety by the Chief of Planning in conjunction with the Director of Public Works.  
(Ord. 94-9)

B. All tables and chairs comprising a sidewalk cafe shall be set back not less than three (3) feet from the curb face and from any sidewalk or street barrier, as determined by the Chief of Planning in conjunction with the Director of Public Works. Aisle clearances of a minimum of forty-four (44) inches shall be provided. Sidewalk cafes shall not block access to trash cans, parking meters, newspaper racks, bus stops, or other such uses of the public right-of-way.  
(Ord. 94-9)

C. No tables or chairs or other furniture shall be placed so as to impede building ingress and egress. All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be moveable and shall be arranged to adequately accommodate persons with disabilities including the visually impaired. Umbrellas shall be secured with a base approved by the Chief of Planning in conjunction with the Director of Public Works.  
(Ord. 94-9)

**Section 6826. Signs.** Signs shall be limited to a menu board and the notice required by Section 6827 B. All signs shall be reviewed and approved by the Chief of Planning.  
(Ord. 94-9)

**Section 6827. Food and Beverages.** A sidewalk cafe may serve only food and/or beverages prepared or stocked for sale at the adjoining indoor food-serving establishment. The service of alcoholic beverages within the area of the sidewalk cafe may be authorized by the conditional encroachment permit or an amendment thereto subject to prior approval by the Chief of Planning and provided that the following requirements are met:  
(Ord. 94-9)

A. The area in which the sidewalk cafe is authorized is clearly delineated and separated from the areas of the sidewalk which will remain open to pedestrian traffic as required by the Department of Alcohol and Beverage Control;  
(Ord. 94-9)

B. One or more signs, as required by the Department of Alcoholic Beverage Control, shall be posted during all times of operation of the sidewalk cafe which shall give notice to customers that the drinking of alcoholic beverages or the carrying of any open container which contains alcoholic beverages is prohibited and unlawful outside the delineated area of the sidewalk cafe;  
(Ord. 94-9)

C. The sidewalk cafe operation shall be duly licensed by the Department of Alcoholic Beverage Control for consumption and service of alcoholic beverages within the area of the sidewalk cafe.  
(Ord. 94-9)

**Section 6828. Service Requirements.** The outdoor preparation of food is prohibited at sidewalk cafes. If the adjoining food-serving establishment is a restaurant, restrooms for the sidewalk cafe shall be provided in the adjoining indoor restaurant.  
(Ord. 94-9)

The permittee shall remove all trash and litter as it accumulates. The permittee is responsible for maintaining the outdoor dining area, including the sidewalk surface and furniture and adjacent areas, in a clean and safe condition at all times. Refuse storage in the public right-of-way is prohibited.  
(Ord. 94-9)

**Section 6829. Days and Hours of Operation.** Sidewalk cafes shall not open before 6:00 a.m. nor remain open past 11:00 p.m. provided however that the hours of operation of the sidewalk cafe shall not extend beyond the approved hours of the adjoining indoor food-serving establishment. The hours of operation may be further restricted by the Chief of Planning in conjunction with the Director of Public Works for reasons such as proximity to residential uses. Tables, chairs, and other furniture used in operation of the sidewalk cafe shall be stored or secured in an orderly manner when the cafe is not in operation so as not to create a hazard to traffic or pedestrians.  
(Ord. 94-9)

If the sidewalk cafe operates after sunset, adequate lighting shall be provided so that the furniture does not become a hazard to pedestrians. Lighting shall be approved by the Chief of Planning in conjunction with the Director of Public Works.  
(Ord. 94-9)

**Section 6830. Term and Renewal.** A conditional encroachment permit for a sidewalk cafe may be approved for a maximum period of one (1) year. An extension application may be filed prior to expiration of the encroachment permit and the Chief of Planning in conjunction with Director of Public Works may extend the permit for additional periods not to exceed one (1) year each, following his/her approval of the cafe's operations. The encroachment permit shall not be transferable.  
(Ord. 94-9)

The City reserves the right to temporarily suspend the operation of the sidewalk cafe upon seven (7) days notice because of anticipated or actual conflicts in the use of the sidewalk area including but not limited to scheduled festivals, parades, and similar events, street or sidewalk repairs, or emergencies occurring in the area. Failure or inability to give prior written notice shall not affect the right and power of the City to temporarily prohibit the cafe's operation at any particular time.  
(Ord. 94-9)

**Section 6831. Application Procedure.** An application for a sidewalk cafe conditional encroachment permit and renewals thereof shall be presented on the form provided by the Chief of Planning in conjunction with the Director of Public Works and shall be accompanied by a fee as set forth in the Resolution Establishing Fees and Charges for Various Municipal Services. The applicant shall provide all information listed on the application form provided by the Chief of Planning in conjunction with the Director of Public Works including a site plan drawn to scale showing the area adjacent to the food-serving establishment including all public improvements (curb, gutters, sidewalks), dimensions from curb to the property line and to the building, all objects within this area including light standards, utility poles, trees, tree wells, trash receptacles, public and private planters, and location of the doorway to the establishment. The distance to doorways of adjacent business establishments must also be shown if they are within five (5) feet of the side boundaries of the business. The area to be used for the sidewalk cafe shall be shown on the site plan with all dimensions and furniture locations.  
(Ord. 94-9)

**Section 6832. Appeals and Revocation.** A conditional encroachment permit may be revoked by the Chief of Planning in conjunction with the Director of Public Works upon ten (10) days notice to the

permittee upon a finding that one (1) or more conditions of the permit or the provisions of this chapter have been violated or that the sidewalk cafe is being operated in a manner which constitutes a nuisance, or that the operation of the sidewalk cafe unduly impedes, restricts, or presents a hazard to the movement of pedestrians. An aggrieved permittee may appeal the denial or revocation of a sidewalk cafe encroachment permit to the Planning Commission upon payment of a fee as set forth in the Resolution Establishing Fees and Charges for Various Municipal Services. The conditions imposed by the Chief of Planning in conjunction with the Director of Public Works in approving a sidewalk cafe encroachment permit shall not be appealable.  
(Ord. 94-9)

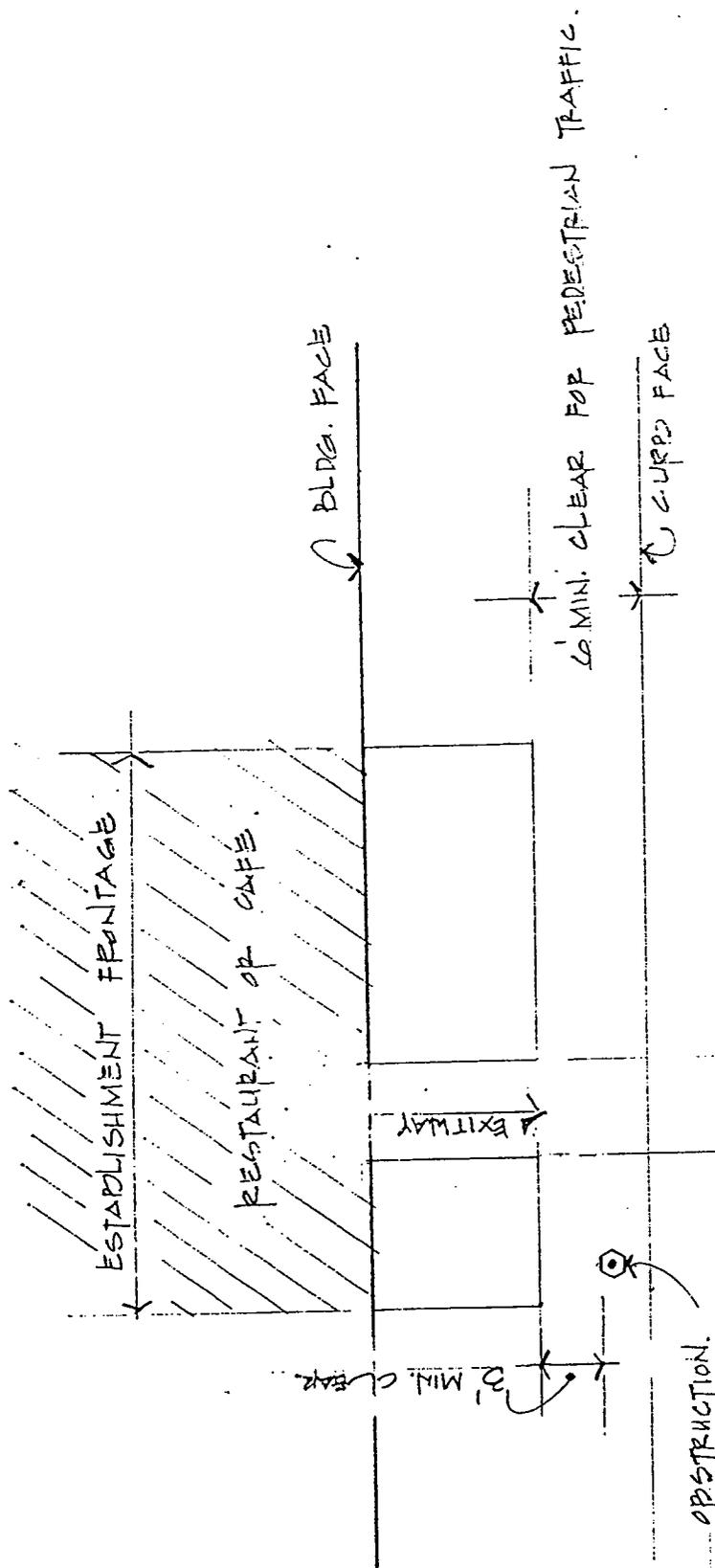
**Section 6833. Liability and Insurance.** The permittee shall be liable for personal injury or property damage proximately caused by placement or operation of a sidewalk cafe. If any claim of liability is made against the City of Concord, its officers or employees, the permittee shall defend, indemnify, and hold them, and each of them, harmless from such claim. The permittee or property owner shall maintain in full force at all times during the term of the encroachment permit a comprehensive general liability policy of One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, and property damage. The permittee or property owner shall provide a certificate of insurance and a separate endorsement to the insurance policy which names the City as an additional insured. The policy shall provide for thirty (30) days notice of cancellation to the City, and shall be in a form approved by the City Attorney.  
(Ord. 94-9)



**Exhibit A. Permissible Locations for Sidewalk Cafes.**  
 (Ord. 94-9)



Boundaries of area where Sidewalk Cafes are permissible, subject to the requirements of Sections 6820 through 6833 of the Municipal Code.

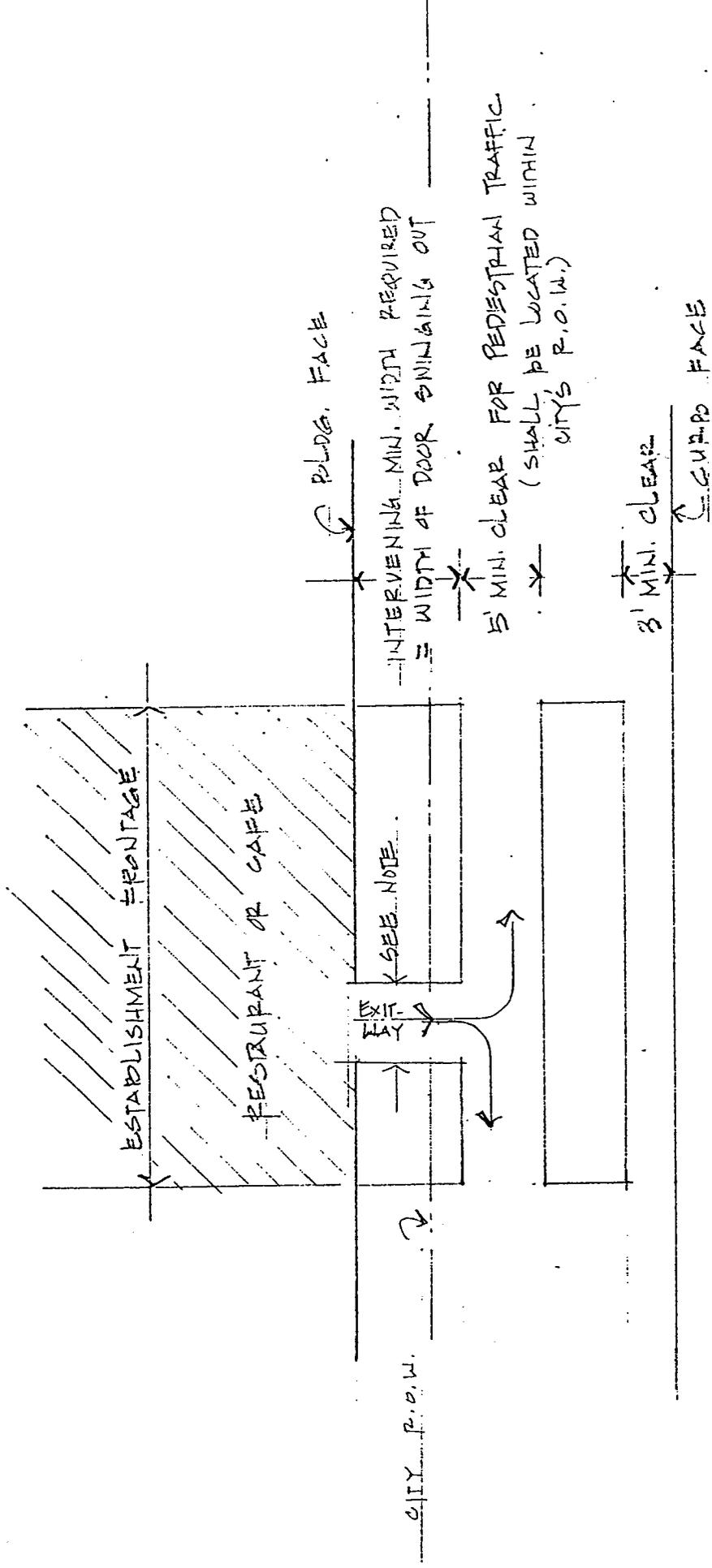


OBSTRUCTION.

CLEAR WIDTH: 44" OR WIDTH REQUIRED IF OCCUPANCY IS 1823 OR LESS  
 AND AS REQ'D. BY UPC SEC. 3203 (b) WHICHEVER IS GREATER IF OCCUPANCY IS MORE THAN 1823

CASE 'A'

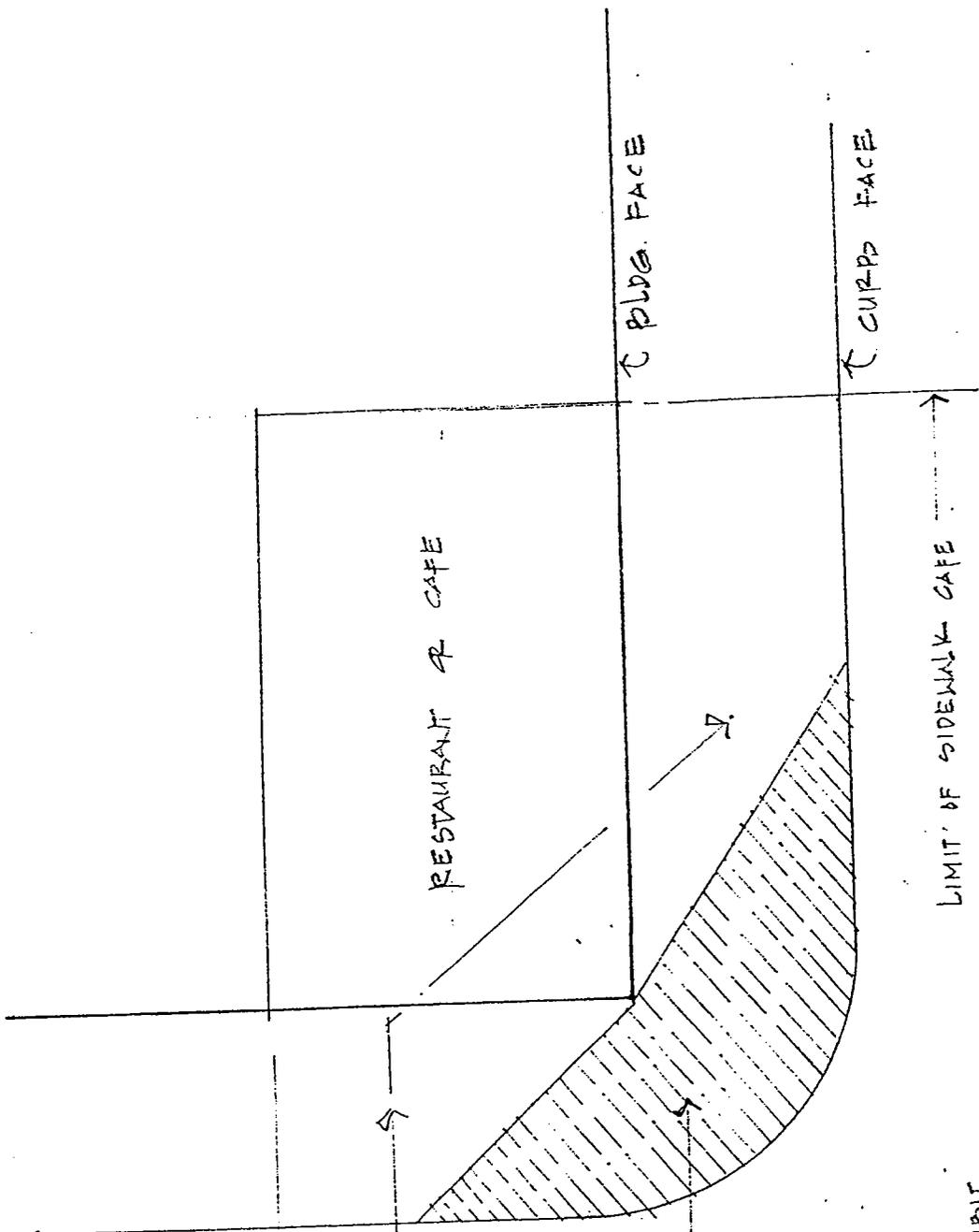
N.T.S.



NOTE: EXITWAY CLEAR WIDTH SHALL BE 44" OR IF OCCUPANCY IS 183 OR LESS;  
 AND AS REQUIRED BY UPC SECTION 3303(b) IF OCCUPANCY IS MORE THAN 183  
 WHICHEVER IS GREATER

CASE 'B'

N.T.S.



LIMIT OF SIDEWALK CAFE

SEE CASE 'A' OR CASE 'B' FOR APPROPRIATE LAYOUT

RESTRICTED AREA, TO BE DETERMINED BY PUBLIC WORKS BASED ON PEDESTRIAN ACCESS AND SIGHT DISTANCE CONSIDERATIONS

NOTE: IT MAY BE POSSIBLE THAT THE DETERMINATION WOULD PROHIBIT A SIDEWALK CAFE ON BOTH FRONTAGES OF THE CORNER ESTABLISHMENT

LIMIT OF SIDEWALK CAFE

CASE 'C'

N.T.S.