

INTRODUCED: June 24, 2019

AN ORDINANCE No. 2019-187

To authorize the owners of certain properties along North 17th Street between East Franklin Street and East Main Street to encroach upon the public right-of-way with outdoor dining areas on a temporary basis, upon certain terms and conditions.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUL 1 2019 AT 5 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the owner of each property set forth on the one-page document entitled “Temporary Outdoor Dining Encroachments,” dated June 19, 2019, and marked as “Exhibit A,” a copy of which is attached to, incorporated into, and made a part of this ordinance, each of which owners is referred to in this ordinance as a “Licensee,” is hereby authorized to encroach on the portion of the public right-of-way known as North 17th Street that abuts such right-of-way line with an outdoor dining area no part of which extends further than 15 feet from the abutting property line of the Licensee’s property, which outdoor dining area is referred to in this ordinance as the “Licensee’s Outdoor Dining Area.”

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: JUL 1 2019 REJECTED: _____ STRICKEN: _____

§ 2. That the grant of authorization for the above-described encroachment shall be subject to the applicable general provisions set forth in sections 24-59 through 24-65 of the Code of the City of Richmond (2015), as amended.

§ 3. That the grant of authorization for the above-described encroachment shall also be subject to the following specific conditions:

(a) The Licensee shall bear all costs incident to the encroachment, including, without limitation, realignment or replacement of street and sidewalk infrastructure, utilities, signs, right-of-way “monumentation,” and maintenance of the encroachment, as directed by City agencies.

(b) Subject to the general requirements of section 24-62(a)(5), the Licensee shall furnish the City evidence of an insurance contract providing either commercial general liability insurance coverage in an amount not less than \$1,000,000 combined single limit or equivalent homeowner’s or renter’s insurance in an amount not less than \$300,000 combined single limit, naming the City as an additional insured, which shall be maintained for the life of the encroachment.

(c) Subject to the general requirements of section 24-62(a)(7) of the Code of the City of Richmond (2015), as amended, the Licensee shall furnish the City a removal bond with corporate surety, an irrevocable letter of credit or other type of financial guarantee, payable to the City and approved by the City Attorney, in the amount of \$5,000.

(d) If required by section 24-64 of the Code of the City of Richmond (2015), as amended, the Licensee shall be subject to an annual Assessor area tax for the Licensee’s Outdoor Dining Area.

(e) The Licensee, or any successor or assignee thereof, shall bear all costs for repair, relocation or replacement of the encroachment in the event of damage or movement due to, but not limited to, vehicular travel; alterations “in” or “to” or failure of City utilities; or the City’s and the public’s use of the right-of-way.

(f) The Licensee shall secure all permits necessary for any work performed in connection with the Licensee's Outdoor Dining Area. The Licensee shall perform all work in connection with the Licensee's Outdoor Dining Area in accordance with the applicable policies and procedures of the Department of Public Works regarding encroachments and work in the public right-of-way.

(g) The Licensee shall ensure that the Licensee's property and the Licensee's Outdoor Dining Area comply with any requirements relating to the occupancy thereof found in Chapter 30 of the Code of the City of Richmond (2015), as amended, the Virginia Uniform Statewide Building Code, and the Virginia Statewide Fire Prevention Code.

(h) The Licensee shall ensure that the Licensee's Outdoor Dining Area complies with the rules and regulations established pursuant to section 2(b) of Ordinance No. 2018-208, adopted September 10, 2018, concerning temporary vehicular travel within the public right-of-way.

(i) The Licensee's Outdoor Dining Area shall conform to the requirements of sections 24-248 through 24-250 of the Code of the City of Richmond (2015), as amended, concerning sidewalk cafés, and the design guidelines adopted pursuant to section 24-246 of the Code of the City of Richmond (2015), as amended, except (i) that subsection (b) of section 24-250 of the Code of the City of Richmond (2015), as amended, shall not apply to the Licensee's Outdoor Dining Area, (ii) that, notwithstanding subsection (c) of section 24-250 of the Code of the City of Richmond (2015), as amended, barriers need not be removed from the Licensee's Outdoor Dining Area in case of a severe storm warning if such barriers are bolted or otherwise securely attached to the sidewalk, and (iii) as otherwise provided by this ordinance. The Director of Public Works may approve changes to the appearance of the enclosure in accordance with the applicable policies and procedures of the Department of Public Works regarding encroachments.

(j) The Licensee shall comply fully with all guidelines set forth in the eleven-page document entitled “17th Street Market, Sidewalk Cafe Design Guidelines,” dated March 2018, and marked as “Exhibit B,” a copy of which is attached to, incorporated into, and made a part of this ordinance.

(k) The Licensee shall be responsible for providing the Division of Permits and Inspections of the Department of Planning and Development Review, the Division of Right of Way Management of the Department of Public Works, and the Office of the City Clerk with written evidence that all conditions of the ordinance have been satisfied within the time period established by this ordinance.

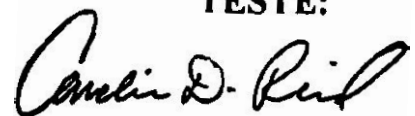
(l) The Licensee shall provide written notification to the City Assessor, the Director of Finance and the Director of Public Works of the new owner’s name and mailing address immediately upon transferring any ownership or encroachment rights to another party.

(m) The Licensee’s rights under this ordinance shall terminate automatically upon the earlier to occur of (i) the date on which a later ordinance adopted by the City Council granting encroachment rights to that Licensee becomes effective or (ii) the date on which this ordinance expires pursuant to section 4 of this ordinance.

§ 4. This ordinance shall (a) be in force upon adoption, (b) shall become effective for each Licensee only when (i) all terms and conditions of Ordinance No. 2018-208, adopted September 10, 2018, have been satisfied and (ii) that Licensee furnishes the required insurance and bond forms and files a written statement in a form satisfactory to the City Attorney to the effect that the Licensee agrees to be bound by and to comply with the terms and conditions upon which the encroachment authorization is granted, and (c) shall expire at the last moment of December 31, 2019.

A TRUE COPY:

TESTE:



City Clerk



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST

4-8872
MAY 30 2019

Office of the
Chief Administrative Officer

O&R REQUEST

DATE: May 24, 2019 EDITION: 1

TO: The Honorable Members of City Council

RECEIVED

THROUGH: The Honorable Levar M. Stoney, Mayor

Handwritten date: 6/18/19 JUN 18 2019

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

OFFICE OF THE CITY ATTORNEY

THROUGH: Robert Steidel, Deputy Chief Administrative Officer

THROUGH: Bobby Vincent, Director, Department of Public Works

THROUGH: M.S. Khara, P.E., City Engineer, Department of Public Works

FROM: Brian Cople, Right of Way Manager, Department of Public Works

RE: PROPOSED TEMPORARY ENCROACHMENTS INTO THE PUBLIC
RIGHT OF WAY FOR OUTDOOR DINING AND ITS AMENITIES ALONG
N. 17th STREET BETWEEN E. MAIN STREET AND E. FRANKLIN STREET

ORD. OR RES No. _____

PURPOSE: To allow each property along the eastern side of the eastern portion and the western side of the western portion of N. 17th Street between E. Main St. and E. Franklin St. to temporarily encroach into the public right of way a maximum of 15' along their frontage with outdoor dining areas and associated amenities of outdoor dining.

REASON: To allow restaurants within this area to begin offering outdoor dining services within the public right of way while survey plats and details are finalized for outdoor dining and other encroachments for each outdoor dining request.

RECOMMENDATIONS: The Department of Public Works offers no objections to the proposed encroachments, and requests that any property owner wishing to establish temporary outdoor dining as authorized by this ordinance be subject to, and including without limitation, the following terms and conditions:

- 1. All incidental costs to the outdoor dining encroachment are the responsibility of the property owner, including without limitation, utilities, signs, right-of-way monumentation, maintenance of the encroachment, etc., as directed by City agencies.

2. The property owner(s) shall provide liability insurance as required or established by the City in a form acceptable to the City and shall maintain the liability insurance in effect for the life of the temporary encroachment.
3. This Outdoor Dining Encroachment is subject to the 17th Street Market Sidewalk Café requirements adopted by UDC 2019-06 (adopted January 2019).
4. The temporary rights granted by this ordinance will automatically expire on December 31, 2019 unless they are extended in writing by the Director of Public Works for an additional period of no more than six months.
5. Outdoor Dining ordinances that may be adopted and in effect for individual properties will supersede the requirements of this ordinance.
6. The property owner(s) is responsible for all costs for repair, relocation, or replacement of the encroachments in the event of damage or movement due to, but not limited to approved vehicular travel.
7. The applicant(s)/owner(s) shall secure a Work In Street Permit (WISP) to construct these improvements within City right-of-way. The encroachment shall be maintained and operated in a manner satisfactory to best management/construction practices and as directed by the Directors of Public Works and Parks and Recreation Director.
8. Each property owner within the limits of this area as defined by this ordinance will be allowed to install and utilize the outdoor dining encroachment as established by this ordinance upon signing an agreement to be bound by the conditions of this ordinance.
9. The outdoor dining encroachment is subject to the certain Sidewalk Café requirements found or referenced in City Code Section 24-249(c) and Section 24-250, excluding 24-250(b) in its entirety and excluding reference to barriers in 24-250(c) if they are securely attached to the sidewalk.
10. The applicant(s)/owner(s) shall ensure that Zoning requirements due to the additional occupancy load added by the permanent outdoor dining encroachment conforms with City Code Section 30 and other applicable City building codes.
11. The applicant(s)/owners(s) shall maintain a suitable clearance for emergency vehicles along the closed portion of 17th Street and the outdoor dining encroachment.

BACKGROUND:

A priority project of the Shockoe Revitalization Strategy (adopted 2011) was the transformation of the 17th Street Market to a pedestrian public plaza and the extension of outdoor dining from the adjoining businesses as permitted.

The portion of 17th Street that fronts on these properties was previously closed to vehicular traffic by Ordinance 2018-208 for the purpose of creating an urban plaza centered around the 17th Street Market.

In order to provide permanent outdoor dining encroachments to individual property owners, DPW's process requires a City Council Ordinance for each individual property. DPW reviews each application from property owners requiring the following information within the application: 1. A formal request for outdoor dining from the Property Owner; 2. Application Fee; 3. City approved survey plat of outdoor dining encroachment; and 4. Other existing and proposed encroachments on the property.

Since time is of the essence, upon adoption, this Ordinance will allow business owners to immediately install temporary outdoor dining encroachments to begin utilization of the public right of way for outdoor dining purposes during the peak period of the year.

While these temporary outdoor dining encroachments are established, DPW and the business owners will continue to work through the process of creating these into permanent outdoor dining encroachments. Temporary rights will expire on December 31, 2019 if permanent encroachments have not been adopted or if the property owner has not received an extension of time from the Director of Public Works.

FISCAL IMPACT/COST: None

FISCAL IMPLICATIONS: None.

BUDGET AMENDMENT NECESSARY: No amendment necessary.

REVENUE TO CITY: None (No fee for temporary outdoor dining encroachments)

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: June 24, 2019

CITY COUNCIL PUBLIC HEARING DATE: July 22, 2019

REQUESTED AGENDA: Consent Agenda.

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: Land Use, Housing and Transportation Committee.

AFFECTED AGENCIES: Public Works; Law Department; Planning and Development Review; Department of Park and Recreation; Public Utilities; Department of Economic Development; Assessor; Budget and Strategic Planning; Fire Department; Police Department; Finance; Public Utilities; Mayor's Office, CAO's Office

RELATIONSHIP TO EXISTING ORD. OR RES.: Ordinance 2018-08

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: None

STAFF:

Prepared for Bobby Vincent, Jr
Prepared by Marvin Anderson
Department of Public Works
646-0435

TEMPORARY OUTDOOR DINING ENCROACHMENTS

| <u>Property Owner</u> | <u>Address</u> | <u>Parcel</u> |
|--------------------------------------|--------------------------------|---------------|
| Shriner Associates, LLC | 3 N. 17 th St. | E0000108038 |
| 7 North 17 th LLC | 7 N. 17 th St. | E0000108039 |
| WCH Properties LLC/Michael Hamway | 9 N. 17 th St. | E0000108042 |
| K & K Associates, LLC | 13 N. 17 th St. | E0000108043 |
| K & K Associates, LLC | 15 N. 17 th St. | E0000108044 |
| 17-5 LLC | 17 1/2 N. 17 th St. | E0000108045 |
| Mickens Thomas | 19 N. 17 th St. | E0000108046 |
| Mavis Lilley LLC/Paul Keevil | 21 N. 17 th St. | E0000108048 |
| Mavis Lilley LLC/Paul Keevil | 23 N. 17 th St. | E0000108063 |
| Mavis Lilley LLC/Paul Keevil | 25 N. 17 th St. | E0000108062 |
| Mavis Lilley LLC/Paul Keevil | 29 N. 17 th St. | E0000108050 |
| B R J Virginia LLC | 1548 E. Main St. | E0000107016 |
| Boot I LLC | 1700 E. Main St. | E0000108037 |
| Loving Harry & Betty/Wright Dunn LLC | 1609 E Franklin | E0000107036 |

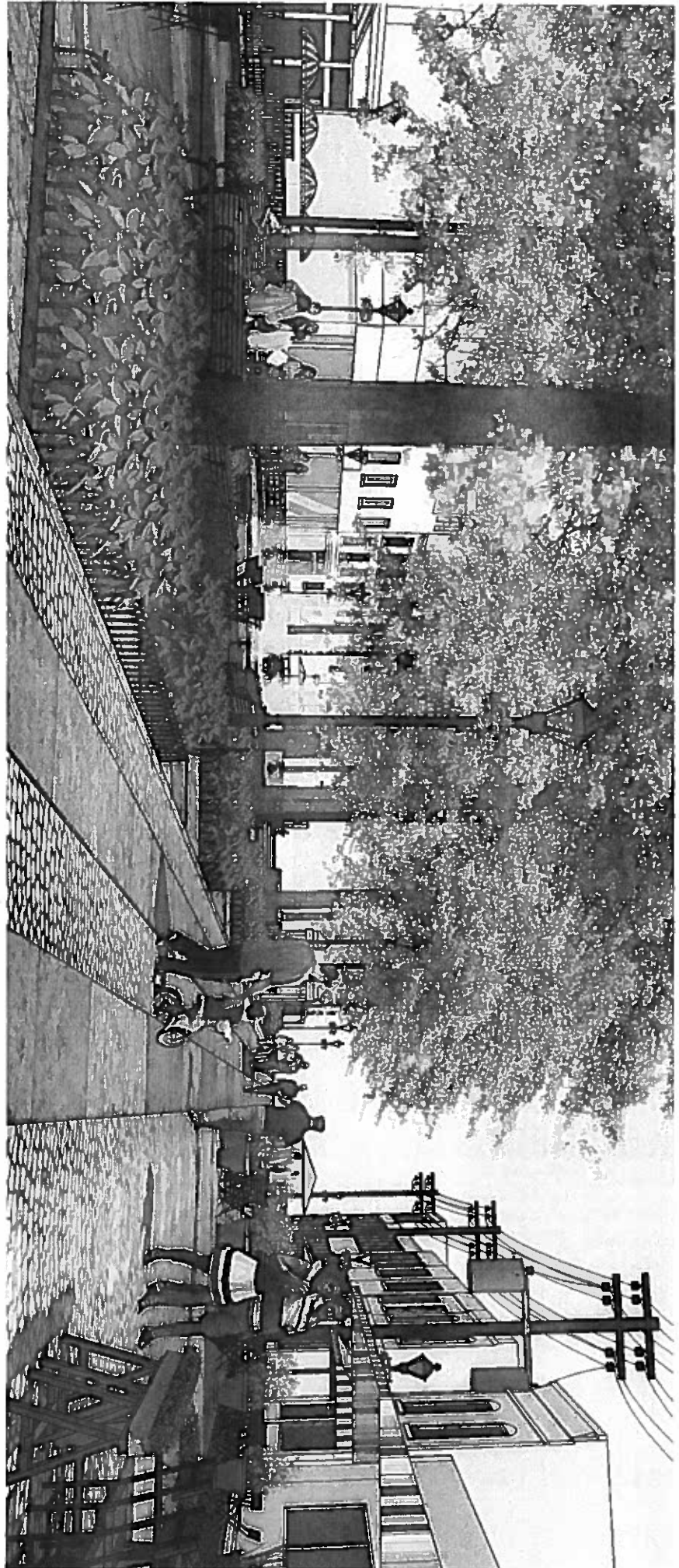
June 19, 2019



17th Street Market

Sidewalk Cafe Design Guidelines

A Placemaking Initiative of the City of Richmond
Department of Planning & Development Review
March 2018



Baskerville

EXHIBIT
B

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Note:
17th Street Outdoor Dining Standards are particular to the properties bounding the 17th Street Market and are to be used in conjunction with the City of Richmond Department of Planning and Development Review Sidewalk Cafe Design Guidelines, published November 2012.

The prices noted are MSRP as of the date of the document. Items are available through different sources other than those noted. Substitutions of substantially similar products may be suggested.

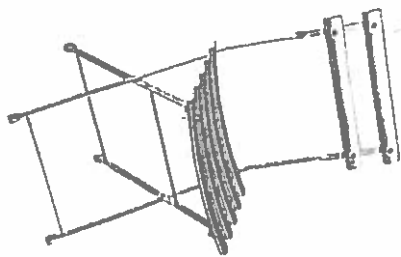
Definition:

Sidewalk cafe means any group of tables, chairs or other seating fixtures and all related appurtenances maintained within the public sidewalk and intended for the purpose of consumption of food and beverage by patrons, when such is located adjacent to a food or beverage service establishment having the same operator. A sidewalk cafe shall not be considered an "encroachment" as defined in Article I of Chapter 90 of the City of Richmond Code of Ordinance so long as all outdoor facilities related thereto are temporary in nature, are not permanently affixed so as to extend below, on or above the sidewalk, involve no penetration of the sidewalk surface, are not attached to any building and are readily removable without damage to the surface of the sidewalk.

More Information:

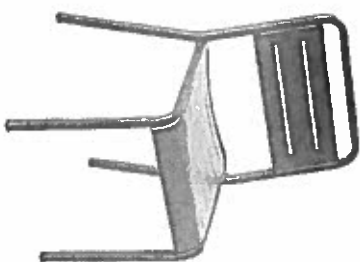
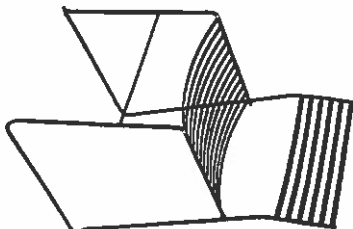
For more information, visit <http://www.richmondgov.com/PlanningandDevelopmentReview/SidewalkCafe.aspx>. At this website, applicants can access the Sidewalk Cafe Guidelines Ordinance, Sidewalk Cafe design Guidelines and sidewalk cafe worksheets and applicant materials. Applicants may also contact the City of Richmond Department of Planning and Development Review by calling (804) 646-4169, or via email at sidewalkcafe@richmondgov.com.

dining chairs



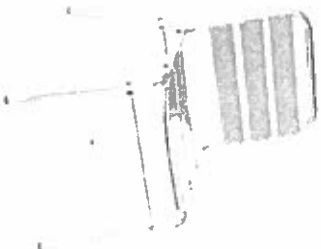
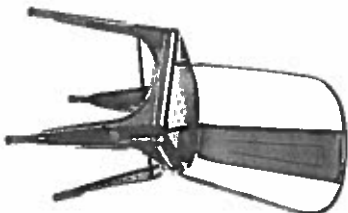
Arc En Ciel
32"h x 17w" x 17"d
\$81/ea. Hotel Restaurant Supply

Aero
30.5"h x 19.5"w x 19.5"d
\$190/ea. Restaurant Furniture Plus



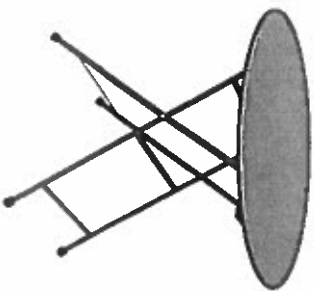
Urban
32"h x 20"w x 21.5"d
\$190/ea. Restaurant Furniture Plus

Marais A Side Chair
33.5"h x 18"w x 15.5"d
\$190/ea. Restaurant Furniture Plus



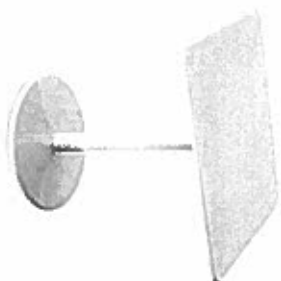
Flora 1000: 32.5"h x 19"w x 22.5"d
\$70/ea. Restaurant Furniture Plus

tables



EMU Arc En Ciel 32"
29.5"h x 32" dia.
\$170/ea. Hotel Restaurant Supply

\$310/ea. Katom Restaurant Supply

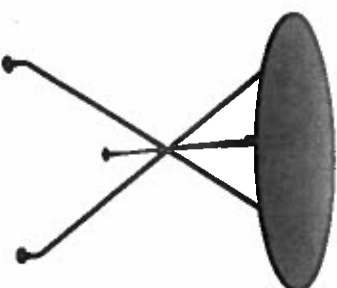


EMU Bistro 901
30"h x 30" sq.
\$310/ea. Katom Restaurant Supply



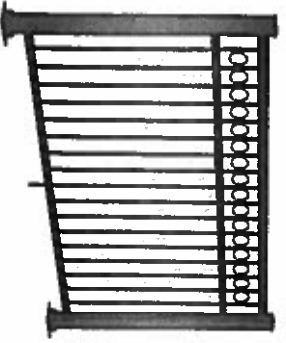
EMU Cambi 801
29.5"h x 32" sq.
\$280/ea. Katom Restaurant Supply

Mobel Designhaus
29"h x 24" sq.
\$275/ea. Amazon

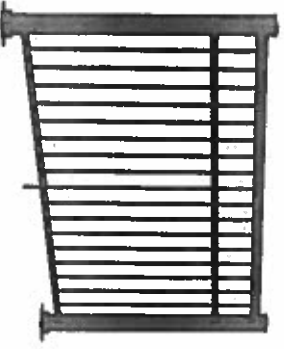


EMU Forte 862
Leed Commercial Standard 36 w/Liner
29.5"h x 36" sq.
\$400/ea. Hotel Restaurant Supply

railings

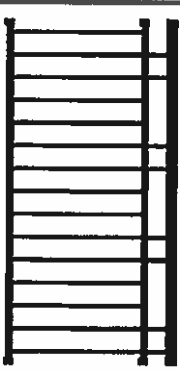


Gilpin Fairfield Plus Aluminum Railing
42" h, 2.5" sq. posts & rails, 5/8" sq. pickets
\$40/linear foot

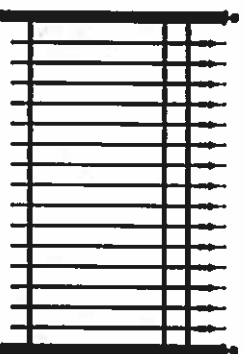


Gilpin Fairfield Aluminum Railing
42" h, 2.5" sq. posts & rails, 5/8" sq. pickets
\$38/linear foot

Worthington Aluminum Railing Series 125
42" h x 2.5" sq. posts & top rail
\$90/linear foot



Custom options that do not detract from the historic nature of Shockoe Bottom will be considered.



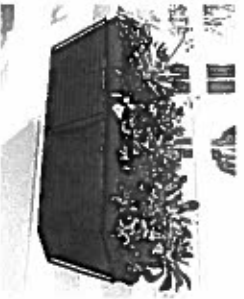
rail planters



3' Fairfield Windowbox
36"l x 11w" x 10.5"h
\$120/ea. Gardners Supply Co.



24" Charleston Rail Planters
24"l x 10"w x 10"h
\$110/ea. Flower Window Boxes



CB2 Oscar Matte
23.75"l x 7"w x 6.25"h
\$30/ea.

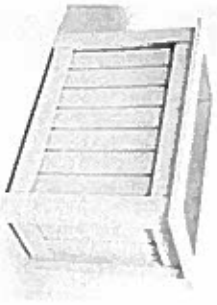


Tidore Rectangular Rail Planter & Hook
24"l x 10"w x 8"H
\$70.00/ea.
Crate&Barrel



Valencia 4' Window Box w/ Hooks
42"l x 7.1"w x 7.5"h
\$150/ea.
Mayne Contract

planters



Coronado Premier Composites
Commercial Planter
36"l x 13w" x 27"h
\$745/ea. Planters Unlimited

Blox 32" Low Galvanized Charcoal Planter

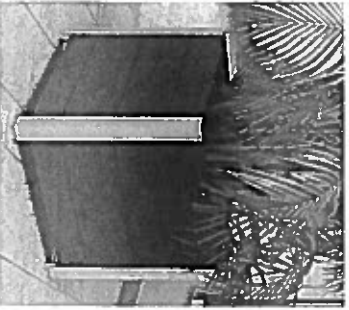
CB2
32"l x 16"w x 16"h
\$80/ea.



Restoration Hardware
Estate Zinc X Planter
39 1/2"l x 19 3/4"w x 19 3/4"h
\$730/ea.

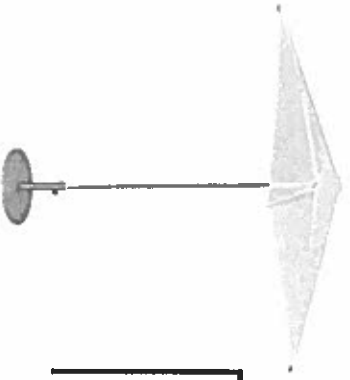
Pure Modern
Modern Elite Divided Planter

32"h x 12"w x 32"H
\$795/ea.



DeepStream Designs
Lead Commercial Standard 36 w/Liner
36"l x 18"w x 21.5"h
\$850/ea.

umbrellas

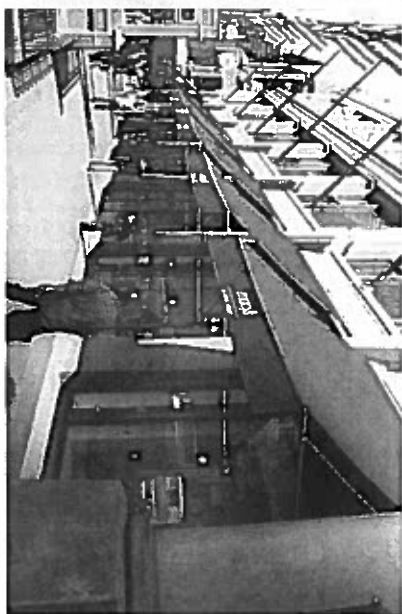


EMU 980 Shade with 24" round base
78.5" sq. x 95"h w/ 1.5" dia pole
\$725/ea. KaTom Restaurant Supply
various colors



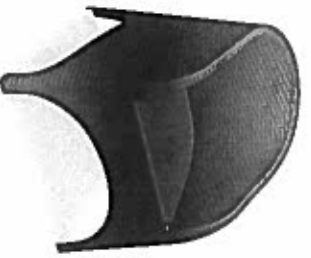
EMU 986 Shade with 24" round base
98.5"w x 94"h w/ 1.5" dia pole
\$880/ea. KaTom Restaurant Supply
various colors

awnings

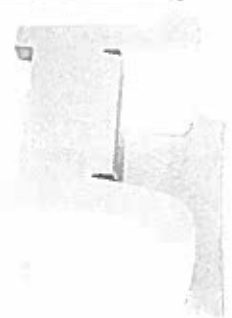


Awnings are custom made. Options that do not detract from the historic nature of Shockoe Bottom will be considered.

lounge furniture



Aruba Resin Wickerlock
\$175/ea. Restaurant Furniture Plus



Bubble Club Chair
31.5" h x 41.1" w x 30.3" d
\$680/ea. Hive Modern



Bellini MB1
25.6" h x 31.5" w x 30.7" d
\$450/ea. Hive Modern

Bubble Club Side Table
16.2" h x 20" w x 20" d
\$225/ea. Hive Modern



Bellini MBS Table
14.2" h x 22" w x 22" d
\$250/ea. Hive Modern