



Temporary Outdoor Dining Space Permit Program for Restaurants

Guidelines and Procedures July 13, 2020



Table of Contents

- 1. Program Overview 3
- 2. Cost and Expiration 3
- 3. Program Categories 3
- 4. Outdoor Dining Layout and Spacing Requirements 7
- 5. County Health Department Requirements 10
- 6. Caltrans - State Highway Right-Of-Way Requirements 10
- 7. State of California Alcohol Beverage Control Requirements 11
- 8. Removal of Outdoor Dining for Restaurants 11

1. PROGRAM OVERVIEW

With the temporary restrictions now in place on certain indoor business operations, including indoor dining, guidelines for businesses within the City of Ontario that wish to temporarily relocate indoor seating from a permitted facility have been developed for outdoor COVID-compliant dining.

The City of Ontario has developed a program to allow temporary outdoor dining for restaurants on private land and in the public rights-of-way, while adhering to public safety and physical distancing requirements.

To ensure and promote public safety, the following shall be applicable to all temporary outdoor dining spaces for restaurants that anticipate utilizing the Temporary Outdoor Dining-Space Permit.

All restaurants that use the Temporary Outdoor Dining-Space Permit Program must follow the California Department of Public Health (CDPH) and Cal OSHA guidance in the COVID-19 Industry Guidance for Dine-In Restaurants (<https://files.covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf>).

State, County and local guidance is subject to change and the dine-in restaurant is required to ensure that the latest guidelines are being adhered to as they continue to operate.

2. COST AND EXPIRATION

- A. There is no initial cost for the Temporary Outdoor Dining-Space Permit.
- B. All Temporary Outdoor Dining-Space Permits shall expire ninety (90) days from issuance or until the end of the Emergency Declaration, whichever is greater.
- C. Temporary Outdoor Dining-Space Permits may be extended up to ninety (90) days with an extension application submitted per the requirements above or until the end of the Emergency Declaration.

3. PROGRAM CATEGORIES

The City of Ontario's Temporary Outdoor Dining-Space Permit Program has been established to ensure businesses have the greatest ability to operate successfully through Stage 2 and 3 of the State's Resilience Roadmap (<https://covid19.ca.gov/roadmap/>). In addition, all Temporary Outdoor Dining-Space Permit holders shall comply with the San Bernardino County Guidelines for Temporary Covid-Compliant Outdoor Dining ([http://www.sbcounty.gov/Uploads/CAO/Feature/Content/Temporary Outdoor Dining Guidelines.pdf](http://www.sbcounty.gov/Uploads/CAO/Feature/Content/Temporary_Outdoor_Dining_Guidelines.pdf)).

Temporary Outdoor Dining - Space Permit Guidelines & Procedures

To ensure flexibility and accommodate various outdoor dining options, the Temporary Outdoor Dining-Space Permit Program is structured to include four categories of outdoor dining options as follows:

- A. Category 1 (Business Owner Self-Certification) – Outdoor dining on private property with no potential conflicts with pedestrian and vehicular activity.



On private property, outdoor dining may occur where vehicular activity does not occur and the dining area does not reduce, impede or eliminate any exiting from buildings or fire access required on site. Proposed outdoor dining on private property shall provide an accessible route to the outdoor dining space and provide accessible seating as required by law.

A self-certification by the dine-in restaurant must be provided to the City with a complete application, photos and a site plan or map clearly depicting the dining area in accordance with the Category 1 Self-Certification Checklist. The Planning Department staff can assist, upon request, with site plan direction.

Category 1 **Get Started Immediately!**

Interim Approval – To streamline the process the dine in restaurant may commence serving their customers outdoors immediately upon application submittal to the City.

The City reserves the right to audit the submission of any application to ensure compliance as required to maintain health, safety and accessibility.

Temporary Outdoor Dining - Space Permit Guidelines & Procedures

- B. Category 2 (Business Owner Self-Certification) Outdoor dining with access to sidewalks/plazas (Use of sidewalks (rights-of way) along the Euclid Avenue frontage will require Caltrans review and approval) where there is no potential conflict with pedestrians or vehicular activity, may be established with City or property owner consent in accordance with guidelines published by California Department of Public Health.



Category 2 Get Started Immediately!

Interim Approval – To streamline the process, the dine in restaurant may commence serving their customer outdoor immediately upon submittal to the City.

The City shall retroactively review Type 2 applications and reserves the right to audit any submission to ensure compliance with these guidelines and procedures as required to maintain health, safety, and accessibility.

- C. Category 3 (Business Owner Self-Certification) – Outdoor dining on areas that may otherwise be designated for vehicular use such as private alleys, private parking spaces, or private parking lots.

With property owner consent, private parking spaces, as required with any entitlement, may be converted to outdoor dining, when the parking lot is located on the same parcel. The proposed conversion must comply with public safety standards for emergency rescue, fire access, building ingress/egress including disabled access, and physical distancing requirements. Additionally, no accessible parking or route of travel for

Temporary Outdoor Dining - Space Permit Guidelines & Procedures

disabled persons may be repurposed for outdoor dining. In some cases, the drive aisle may be used if approved by the City.

Landscaping and required buffer areas for the off-site parking spaces, shall not be used as expanded converted use for outdoor dining. There shall be no parking required for outside seating in these areas.



Category 3 **Get Started Immediately!**

Interim Approval - The dine-in restaurant may start serving customers outdoor immediately upon application submittal to the City.

The City reserves the right to audit the submission of any application to ensure compliance with these guidelines and procedures as required to maintain health, safety and accessibility.

- D. Category 4 (City Review Required) – Outdoor dining on City roadways, alleyways and rights-of-way.

Outdoor dining for restaurants may expand operating space in designated portions of the public rights-of-way. These include City roadways, alleyways and rights-of-way having a posted speed limit of 35 miles-per-hour (mph) or lower. The proposed use of the public right-of-way shall ensure ADA pedestrian paths are maintained, review impacted utilities, and assess impacts to metered parking stalls, bike lanes, bus stops, travel lanes, and other roadway amenities.

Use of parking spaces within the right-of-way, without a full road closure, will require City Traffic Engineering review and approval. A decision for approval/denial for the need for modifications will be provided to the business owner within 14 business days from the date of complete application submittal.



4. OUTDOOR DINING LAYOUT AND SPACING REQUIREMENTS

- A. All minimum disabled access standards in accordance with state law and the Americans with Disabilities Act (ADA) must be met.
- B. All fire access and exit discharge to public access shall be maintained at all times, including, but not limited to Fire Department connections and control valves, fire extinguishers, fire sprinkler risers, hydrants and fire lanes.
- C. For any outdoor dining on publicly owned property, each establishment/permittee shall provide insurance with respect to the use of said property under this Application. The required insurance and limits are subject upon review of the application and scope of use.
- D. Restroom accommodations and/or sanitation stations shall be provided for patrons.
- E. Up to 100% of the combined indoor dining space occupant load of the restaurant may be accommodated outside if all other state or local requirements are met in accordance with these guidelines and procedures, provided that parking spaces are available to accommodate patrons (Outdoor dining cannot take up more than 50% of available parking).
- F. Outdoor music may be allowed subject to Planning Department review and approval. Businesses within 500 feet of a residential use may not be allowed to have outdoor music.
- G. Pedestrian Circulation requirements shall include:
 - (1) Separation
 - a. Adequate pedestrian separation of at least six (6) feet shall be maintained.

Temporary Outdoor Dining - Space Permit Guidelines & Procedures

b. If six (6) feet is not achievable, shielding or other alternative safety measures must be placed to separate diners and pedestrians.

(2) A clearly marked, unobstructed, and durable pedestrian path, that meets required accessibility standards, of no less than six (6) feet, shall be maintained for each sidewalk outdoor dining area and shall adhere to the following standards:

- a. The path can be taped, cordoned or signed to clearly show the path.
 - i. The minimum distance of the pedestrian path shall be measured from the portion of the sidewalk outdoor dining boundary which is nearest either the nearest curb or the nearest obstruction.
 - ii. No tables, chairs, umbrellas or other fixtures shall be permitted within six (6) feet of a pedestrian crosswalk or corner curb cut.

(3) Outdoor dining areas shall:

- a. Maintain unobstructed access to public utilities, building entrances and exits, crosswalks, bus stops and transit entrances; and
- b. Maintain pedestrian and traffic safety.

H. The width of the extended outdoor dining area is restricted as follows:

- (1) Shall not exceed the width of any sidewalk frontage of the applying property.
- (2) Applicants may coordinate with adjacent non-restaurant property owners/tenants to extend their outdoor dining areas.
- (3) Applicants may coordinate together, extending their premise in a joint application without exceeding the maximum outdoor occupancy limits as required by this policy.

I. Fire Lane Access:

- (1) Access to fire hydrants, fire hose connections for sprinkler systems, and entrances and exits of all buildings shall not be obstructed at any time by barriers or seating.
- (2) A minimum, clear and unobstructed twenty (20) foot fire lane shall be maintained at all times.
- (3) There shall be a minimum of forty (40) inches in distance separating the edge of a table or chair to a fire department connection.

J. Signage

- (1) Signage shall be placed on the restaurant premises informing customers that, with proper State of California Alcohol Beverage Control permits:
 - a. Any alcohol purchased for consumption in the outdoor flex-space, must be consumed within the designated and barriered area.
 - b. Any alcohol purchased to go, must be taken from the restaurant in a closed container.
 - c. The restaurant must have an existing City approved alcohol beverage license for the sale of alcoholic beverages. If the restaurant has an existing Conditional Use Permit (CUP) for the sale of alcoholic beverages, all applicable conditions of the CUP shall apply to the permit.
- (2) Any signage within the public right-of-way cannot contain advertising or branding of alcoholic beverages. However, a temporary (3 to 4-foot high) A-frame sign may be allowed on the sidewalk or private property to advertise the business, subject to Planning Department review and approval.

K. Lighting

- (1) Appropriate lighting of the outdoor dining area is required if operating outside of daytime hours.
- (2) When visible from the adjacent roadway, lighting shall be steady-state, and not 'blink' or 'flash'.

L. Barriers

- (1) Use of landscaping and planters is permissible, however these materials should not be permanently affixed to any public rights-of-way.
- (2) Use of removable barriers to define the sidewalk dining space is permissible.

M. Food Preparation

- (1) No cooking or open flames are permitted in the outdoor dining area.
- (2) No food preparation, plastic food displays, food storage, or refrigeration apparatus shall be allowed on the public right-of-way.

Temporary Outdoor Dining - Space Permit Guidelines & Procedures

N. Umbrellas

- (1) Umbrellas shall be secured, fire-retardant, pressure-treated and/or manufactured of fire-resistant material.
- (2) No portion of an umbrella shall be less than six (6) feet, eight (8) inches (eighty (80) inches) above the sidewalk.

O. Tents and Membrane Structures shall obtain pre-requisite permits as required by the City Building Department.

P. Raised Elements

- (1) Any raised element shall not obstruct visibility of an existing roadway sign or traffic signal.
- (2) Raised elements of outdoor dining shall not obstruct sight distance at intersections and driveways.

Q. The dine-in restaurant shall be responsible for:

- (1) Removal of all portable tables and chairs each evening at closing, if located on public property or public right-of-way; and
- (2) Removal of trash and clean-up in all cases.

R. All Category 4 applications, in addition to all applications necessitating traffic control or pedestrian detours within the public right of way, may be required to comply with criteria generally reserved for Encroachment Permits and/or Street Opening Permits as deemed appropriate by the Public Works Department, including but not limited to: performance of work by a CA Contractor holding an appropriate and valid license and submittal of traffic control plans.

5. COUNTY HEALTH DEPARTMENT REQUIREMENTS

All outdoor dining shall meet San Bernardino County Health Department requirements.

6. CALTRANS - STATE HIGHWAY RIGHT-OF-WAY

Temporary use of sidewalks and curb side parking areas within the State highway right-of-way, will require Caltrans review and approval. The City will work with the business owner to obtain an Encroachment Permit for the temporary use of sidewalks and/or curbside parking areas within State highway right-of-way for COVID-19 related non-transportation uses. The guidelines for temporary use of sidewalks and curbside parking areas within the State highway right-of-way are outlined on the Caltrans website at <https://dot.ca.gov/programs/traffic-operations/ep>. Please contact the District Encroachment Permit Offices with any questions or for additional details.

7. STATE OF CALIFORNIA ALCOHOL BEVERAGE CONTROL REQUIREMENTS

- A. Restaurants and food establishments licensed by the State of California Alcohol Beverage Control will be permitted to sell and allow on-premise consumption of alcoholic beverages within the outdoor dining area on private property, on immediately adjacent sidewalks, within parklets and outdoor dining that have been closed to traffic by the City of Ontario.
- B. The proper COVID-19 license is required from the State of California Alcohol Beverage Control to sell alcohol beverages in the outdoor dining area.
COVID-19 ABC Information: <https://www.abc.ca.gov/wp-content/uploads/forms/ABC-218%20CV19%20INSTR.pdf>
ABC Application: <https://www.abc.ca.gov/wp-content/uploads/forms/ABC-218%20CV19.pdf>
- C. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a physical barrier that meets the requirements of the Alcoholic Beverage Control Board.
- D. The Applicant is responsible for managing these barriers and removing them when necessary.
- E. The hours of operation for outdoor dining for restaurants using public rights-of-way for outdoor dining will be subject to review and approval by the City.
- H. Dine in restaurants not currently permitted to sell alcohol will not be affected by this requirement.

8. REMOVAL OF OUTDOOR DINING FOR RESTAURANTS

- A. The City reserves the right to remove a sidewalk dining space that:
 - (1) Creates an obstruction to, or causes congestion of, pedestrian or vehicular traffic due to existing conditions on the surrounding public right-of-way if it finds the installation represents a danger to the health, safety or general welfare of the public; or
 - (2) A business violates the requirements of the Temporary Outdoor Dining-Space Permit Program or Federal, State and Local orders.
- B. The City may require the removal, temporary or permanent, of the sidewalk dining space when redevelopment or improvements of the street or sidewalk, or utility repairs necessitates such action, or the permittee fails to comply with the criteria set forth in existing City ordinances.

- C. Any costs incurred by the City for removal or storage of sidewalk tables, chairs and other equipment shall be the responsibility of the business. The city is not responsible for any damages or loss of equipment removed pursuant to this subsection.