

SIDEWALK CAFÉ - OUTDOOR DINING AREA GUIDELINES REVISED AUGUST 2017

The following guidelines are for Outdoor Dining Areas and Sidewalk Cafes within the City of Oceanside. These guidelines address outdoor dining areas located on private property and sidewalk cafes located on City rights-of-way. The guidelines are meant as a supplement to the standards and policies of Section 3020 of the City of Oceanside Zoning Ordinance.

Outdoor Dining Areas is defined as an outdoor extension of a restaurant, delicatessen, ice cream parlor, coffee house or similar food service use.

Sidewalk Cafes is defined as **Outdoor Dining Areas** in which the majority of the seating capacity of the Dining establishment is located indoors and where exterior seating is located on a sidewalk and may occur within the confines of private property or partially or wholly located on the public right-of-way.

Location, Design Criteria

General

1. An Outdoor Dining Area and Sidewalk Cafe shall be limited to use at food service and Dining and drinking establishments.
2. A Sidewalk Café and/or Outdoor Dining Area that would be situated in the public right-of-way shall be constructed, operated and maintained in accordance with a permit approved and issued by the Engineering Division and a **Sidewalk Café Encroachment Removal Agreement (CERA)** to be recorded once approved and signed by the City Engineer. See Section B of these guidelines.
3. Applications for an Outdoor Dining Area shall include: the items and information outlined in the attached form for "Application – Sidewalk Café / Outdoor Dining Area Permit" and the Engineering Division Submittal Requirements for any other information determined necessary and appropriate by the City.
4. Sidewalk cafes or outdoor food service accessory to an eating and drinking establishment are permitted within the C2, C1, CV, CN, CC, CL, CG, CR, CS, CV, IL, IP zoning districts located outside of the Downtown Area, and in all D Downtown Districts, subject to the review and the approval of an Outdoor Dining Area or Sidewalk Café permit issued by the City Planner if located on private property and by the City Engineer for projects encroaching into the right-of-way, if the following standards are met:
 - a) The outdoor Dining area does not directly abut a residential district or a sensitive habitat area (Separated by a street or alley will be considered as not directly abutting).
 - b) With the exception of properties within the Downtown and Coastal areas, where there is no specified limit, the outdoor dining area is limited to less than 500 square feet. However, additional area can be approved through an Administrative Conditional Use Permit as per Section 3020 of the 1992 Zoning Ordinance.
 - c) The serving of alcoholic beverages is subject to the approval of the State of California Department of Alcohol Beverage Control (ABC), and the City of Oceanside's Police Chief and City Planner. The serving of alcoholic beverages shall also be subject to any applicable City zoning regulations governing alcoholic beverages.

- d) The proposed Outdoor Dining Area complies with any other applicable City of Oceanside Zoning Ordinance requirements.
 - e) The proposed Outdoor Dining Area shall comply with all applicable provisions of the Americans with Disabilities Act and the disabled access requirements of the California Building Code.
 - f) No outdoor preparation of food or beverages is permitted, except as permitted for outdoor barbeques pursuant to California Health and Safety Code, Article 9, Section 27641.
 - g) Live entertainment is prohibited within the outdoor Dining area.
 - h) The Outdoor Dining Area shall not be located within any setback area or public right-of-way, with the exception of sites west of Interstate 5 and sites within the Mission Historic Core area. Outdoor Dining Areas in these areas may be located within the public right-of-ways or front or corner side-yard setback areas.
5. Tables, chairs and any other fixtures placed on Outdoor Dining Areas must not block access to fire protection equipment (e.g. fire hydrant, emergency exit doors).
 6. All equipment, fixtures, furniture and structures used in an Outdoor Dining Area or Sidewalk Café shall be situated in a manner to maintain adequate and safe pedestrian and vehicular movement and consistent with provisions of the Americans with Disabilities Act and State of California accessibility standards.
 7. Where tables are placed next to a building's exterior wall, a clear area of at least four (4) feet in width shall be maintained to building entries.
 8. Proper clearance around fire emergency facilities (e.g., fire hydrants, exits, etc.) at a minimum of four feet or as determined by the City shall be maintained at all times.
 9. Fixtures, furniture and structures, including but not limited to tables, chairs and umbrellas, used in an Outdoor Dining Area shall not encroach on the property line or frontage of an adjacent business or property.
 10. All fixtures, furniture and structures, including awnings and umbrellas, shall have a color and design scheme that is complementary to that used by the business associated with the Outdoor Dining Area.
 11. All fixtures, furniture and structures used in the Outdoor Dining Area shall be of substantial construction to withstand outdoor use, and maintained in good condition, quality and repair at all times.
 12. All umbrellas shall be taken down and stored indoors at the close of each business day. The umbrellas must be in good repair, maintained, and replaced if fading occurs or if damaged.
 13. The framework and supports of awnings, umbrellas, and other shade structures shall be made of wood or metal framework and shall be covered with a material or fabric meeting the approval of the fire marshal, if required. Umbrellas must be secured with a minimum base of not less than sixty (60) pounds and should not encroach into any required pedestrian access ways unless a minimum height clearance of seven (7) feet, measured from ground level to the lowest point of the umbrella canopy or framework, is maintained.

14. All exterior surfaces within the Outdoor Dining Area shall be easy to maintain and shall be kept clean at all times by the business owner/operator and comply with the Chapter 17 (Real Property Nuisance Abatement) and Chapter 40 (Urban Runoff and Discharge Control Ordinance) of the City Code.
15. Trash receptacles shall be provided and the Outdoor Dining Area shall be kept free of litter and other debris.
16. No signage shall be allowed in the Outdoor Dining Area except for the name of the establishment or other uniform product signage on an awning or umbrella, and in conformance with the City's Sign Ordinance requirements.
17. An Outdoor Dining Area located on private property shall be maintained and operated in accordance with a permit approved and issued by the City Planner.
18. Any Outdoor Dining Area permit that requires construction, staging or temporary obstruction of the public right-of-way shall obtain a Right-of Way permit from the City Engineering Department.

B: Sidewalk Cafes and Outdoor Dining Areas within the Public Right-of-Way.

Sidewalk Café Encroachment Removal Agreement and Construction Certificate Permit

1. An Encroachment Removal Agreement and Construction Certificate Permit approved by the City Engineering Division is necessary for any Outdoor Dining Area or sidewalk café encroaching into the City right-of-way. The permit shall remain in effect for as long as the sidewalk café owner/operator and permittee remains in compliance with the approved permit. The permit and the Encroachment Removal Agreement shall terminate when the business closes, changes ownership or is abandoned. In no case shall an Encroachment and Removal Agreement for a sidewalk cafe be transferred or assigned to a different party, location or business operator.
2. Liability Insurance. Business Owner, and any contractor or contractors acting on behalf of Business Owner under this Agreement, shall take out and maintain at all times during the term of the permit and Encroachment Removal Agreement the following insurance at its sole expense:

General liability and property damage insurance with the City named as an additional insured for bodily injuries and property damage resulting from the Business Owner's or its employee's, agents, invitees', or contractor's activities with regard to the authorized Encroachment. A Certificate of Insurance shall be filed with the City Clerk. The Combined Single Limit Per Occurrence shall be \$1,000,000.
3. If the Outdoor Dining Area encroaches in to the public right-of-way, the permittee (business owner/operator) shall be responsible for all repairs from any damage caused to the public improvements as a result of the installation and/or removal of the equipment, fixtures, furniture and structures placed and used in the public right-of-way.
4. While the City strives to maintain maximum public accessibility, a clear area of at least four (4) feet in width of linear paved sidewalk, free of all obstructions, shall be maintained to allow adequate pedestrian movement on the sidewalk. The City retains the right to require more than four (4) feet of linear paved sidewalk on a case-by-case basis. The City's evaluation to allow less than four feet of clear area will be based on pedestrian flow, location of existing landscaping and other

obstructions, and other issues as determined by the City Engineer to maintain safe and attractive use of the public right-of-way.

5. Sidewalk Cafes located on Mission Avenue west of I-5: The City strives to maintain a clear area of at least six (6) feet in width of linear paved sidewalk, free of all obstructions, and such clear area shall be maintained to allow adequate pedestrian movement on the sidewalk. The City will evaluate a clear area of less than six feet on Mission Avenue west of I-5 on a case-by-case basis. The City's evaluation to allow less than six feet of clear area on Mission Avenue will be based on pedestrian flow, location of existing landscaping and other obstructions, and other issues as determined by the City Engineer to maintain safe and attractive use of the public right-of-way.
6. The Outdoor Dining Area shall be on the same elevation as the sidewalk. Raised platforms or footings will not be permitted.
7. All fixtures, barriers, railings, landscaping or combinations thereof shall be in place when the sidewalk café is in operation and shall be stationary and fixed to the sidewalk. All furniture and other fixtures shall be removed from the public right-of-way and properly stored when the sidewalk café is closed.
8. All equipment, fixtures, furniture and structures used in an Outdoor Dining Area or Sidewalk Café shall be situated in a manner to maintain adequate and safe pedestrian and vehicular movement.
9. Tables and chairs or any other outdoor fixture shall not be placed in a manner to disrupt pedestrian and vehicular movement and shall not be placed within two (2) feet of any street or parking lot curb unless proper safety features are utilized and specifically approved through the permit process by the City Planner and/or City Engineer.
10. Tables, chairs and fences shall be placed with minimum three (3) feet space between them to maintain safety and movability for customers and servers.
11. Where physically possible, all fixtures and furniture should be placed in line with tree wells, streetlights and other street furnishing elements in order to maximize a linear unobstructed area.
12. All sidewalk café furniture, including tables, chairs, umbrellas and planters shall be movable. All sidewalk obstructions, including but not limited to nonpermanent trash receptacles, should be removed completely from the public-right-of-way daily prior to close of business.
13. If the Outdoor Dining Area encroaches into the public right-of-way, the permittee (business owner/operator) shall cause the Outdoor Dining Area to be steam-cleaned or pressure washed at least once a month or such shorter interval as necessary to maintain the sidewalk reasonably clean and comply with Chapter 17 (Real Property Nuisance Abatement) and Chapter 40 (Urban Runoff and Discharge Control) of the City Code. At no time shall any food, trash or debris be left in or on the right-of-way, spilled or dropped food items and other matter shall be picked up and cleaned off immediately.
14. At the permittee's expense, the City will annually inspect the Outdoor Dining Area or Sidewalk Café to insure compliance with the terms of the Sidewalk Café Permit and the Encroachment Removal Agreement. The City retains the right in its sole discretion to amend or revoke the Outdoor Dining Area or Sidewalk Café permit and to abate or remove any Outdoor Dining Area or Sidewalk Café facilities located on public rights-of-way after a written 30-day notice to the permittee.

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C: Outdoor Dining Area Fences and Walls

Outdoor Dining Area Fences and Walls Within the Public Right-of-Way

An Outdoor Dining Area within a public right-of-way, lot's front or corner side yard setback area shall be decoratively fenced and landscaped to delineate the Outdoor Dining Area as per the following guidelines:

- a) Fences or walls shall be decorative in nature and consistent with the attached illustrations. Acceptable materials include decorative wrought iron, tubular steel or wood or other durable material that may be approved by the City Planner or City Engineer.
- b) Planter boxes are encouraged when used in combination with fencing/barriers. Planter boxes may include rail planter, vertical garden wall, planter boxes or a combination thereof. Planter boxes shall be self watering and designed to prevent irrigation runoff to comply with the City's Chapter 40 Urban Runoff and Discharge Control Ordinance.
- c) A solid masonry wall used to delineate the Outdoor Dining Area is acceptable only if located outside of the public right-of-way.
- d) Fences or other barriers that are designed to be freestanding and easily removable may be permitted within the public right-of-way. The maximum height of the fence or barrier shall be 3.5 feet (42 inches). The City may consider fences higher than 42 inches on a case-by-case basis. Footings shall be complementary to the fence/barrier design. Concrete footings are not allowed in the public right-of-way
- e) The requirement of fencing may be waived by the City Planner or City Engineer for seating of twelve (12) or fewer persons, if all of the following apply:
 - 1) An alternate method of delineation of the Outdoor Dining Area, such as landscaping or another buffer/barrier, is acceptable to the City; and
 - 2) The Outdoor Dining Area is not located within a high pedestrian or traffic area; and
 - 3) The Outdoor Dining Area is not open after dusk, except when ambient lighting is provided by Business Owner to illuminate the Outdoor Dining Area; and
 - 4) The Outdoor Dining Area is removed daily at the close of business

Outdoor Dining Area Fences and Walls Within Private Property

Outdoor Dining Areas within private property and located outside of the public right-of-way, or outside of a front or side-yard setback area shall be delineated by a fence or other means according to the following guidelines:

- a) A fence or wall shall be required for an Outdoor Dining Area with more than 20 seats, unless it is determined by the City, through the permit process, that the Outdoor Dining Area can be appropriately delineated and managed by some other method, such as landscaping or other buffer/barrier.

- b) The maximum height of a fence or wall shall be 6 feet (8 feet if abutting a non-residential district or within the Downtown area).
- c) Outdoor Dining Areas adjacent to residential districts shall be appropriately buffered by the use of a solid fence or wall (6-foot high minimum and 8-foot high maximum) to the satisfaction of the Planning Director or Redevelopment Director.
- d) Fences and walls shall be decorative in nature to the satisfaction of the City Planner. Acceptable materials include wrought iron, tubular steel, wood and decorative masonry.

Further restrictions for fencing and other standards may be placed on the business by the State of California Department of Alcohol and Beverage Control (ABC), the Oceanside Police Department, and/or the City Planner if alcohol beverages are proposed to be served in the outdoor Dining area.

Application and Approval Process

All proposals for Outdoor Dining Areas shall be submitted with an application package and fee to the City Development Services Department. The application shall include the following:

- a) A completed Outdoor Dining Area Permit application form
- b) A description and justification narrative clearly characterizing and explaining the need for the proposal
- c) A site plan drawn to scale that clearly identifies and labels the area proposed for the Outdoor Dining. This includes building footprints, property and/or rights-of-way lines, existing and proposed features, any structures including buildings, existing and proposed landscaping, proposed table and seating areas, and other features relevant to the proposed Outdoor Dining Area.
- d) Schematic scaled elevation drawings clearly showing proposed fences, buildings, awnings, signs, furniture, landscaping, accessories, etc.
- e) Application fee
- f) If located in the public right-of-way, the following additional items shall be required:
 - a Certificate of Insurance naming the City of Oceanside as an additional insured for \$1,000,000
 - An Outdoor Dining Encroachment and Removal Agreement application.
 - A "Construction Certificate Permit" to work in the right-of-way
 - Engineering review fee for Outdoor Café and Construction Certificate permits.