

## **SIDEWALK CAFÉ - OUTDOOR DINING AREA GUIDELINES REVISED MARCH 2022**

The following guidelines are applicable to Outdoor Dining Areas and Sidewalk Cafés within the City of Oceanside. More specifically, these guidelines address outdoor dining areas located on private property, as well as sidewalk cafés located within City (public) right-of-way. The guidelines are intended to supplement the standards and policies of Section 3020 of the City of Oceanside Zoning Ordinance.

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

A “**Sidewalk Cafés**” is defined as **Outdoor Dining Areas** in which the majority of the seating capacity of that dining establishment is located indoors and where exterior seating is located on a sidewalk. A Sidewalk Café may be located on private property, or partially or wholly located within the public right-of-way.

### **A. Location and Design Criteria**

1. An Outdoor Dining Area and Sidewalk Café shall be limited to use at food service and dining and drinking establishments.
2. An Outdoor Dining Area and/or Sidewalk Café situated in the public right-of-way shall be constructed, operated, and maintained in accordance with the **Sidewalk Café Encroachment Removal Agreement (CERA)**. The **CERA** is approved and issued by the City’s Engineering Division. See Section B of these guidelines for more information.
3. Applications for an Outdoor Dining Area shall include the items and information outlined in the attached form entitled “Application – Sidewalk Café / Outdoor Dining Area Permit.” (Attachment 1)
4. Sidewalk Cafés 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, and within all D Downtown Districts, subject to the review and the approval of an Outdoor Dining Area or Sidewalk Café permit. The City Planner will issue the permits for private locations and if located on public property the City Engineer will issue a right-of-way permit or CERA, provided that the following standards are met:
  - a) The Outdoor Dining Area does not directly abut a residential property or a sensitive habitat area (separated by a street or alley will be considered as not directly abutting).
  - b) With the exception of properties located within the City’s Downtown and Coastal areas (where there is no specified limit), the Outdoor Dining Area shall be limited to less than 500 square feet. However, additional area may be approved through an Administrative Conditional Use Permit pursuant to Section 3020 of the Zoning Ordinance.
  - c) The serving of alcoholic beverages is subject to written approval by the State of California Department of Alcohol Beverage Control (ABC), Police Chief, and City Planner. The serving of alcoholic beverages shall also be subject to all applicable City zoning regulations governing alcoholic beverages.
  - d) The Outdoor Dining Area shall comply with all applicable City Zoning Ordinance requirements.

- e) The Outdoor Dining Area shall comply with all applicable local, federal, and state provisions of the Americans with Disabilities Act (ADA) and disabled access requirements of the California Building Code.
  - f) No outdoor preparation of food or beverages is permitted in Outdoor Dining Areas or Sidewalk Cafés, except as permitted for outdoor barbecues pursuant to California Health and Safety Code, Article 9, Section 27641.
  - g) Live music is prohibited within the Outdoor Dining Area.
  - h) Outdoor Dining Areas shall not obstruct or restrict access to public utilities (i.e. Water, Fire, Storm Drain, SDG&E, Cable, and Communication), grease traps/interceptors, parking meters, ADA parking spaces and ADA pedestrian access routes, and Transportation. An Outdoor Dining Area located within 15 feet or less from a public utility will need to obtain written approval from said utility company/division/company prior to operation.
  - i) 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.
  - j) Outdoor Dining Areas located within a business's private parking area shall be reviewed on a case-by-case basis. When parking and Outdoor Dining Areas are intermixed, a safety barrier or buffer distance shall be provided to protect people and property from potential vehicle impact. The Outdoor Dining Area shall not affect vehicle ingress and egress and shall be subject to compliance with the City's Traffic Code Regulations. A parking analysis shall be required for Outdoor Dining Areas located within private parking lots. City staff will review and consider the analysis based on the following:
    - Parking demand resulting from operation of the Outdoor Dining Area
    - Existing site's parking inventory
    - Surrounding public parking supply. City staff reserves the right to deny approval of an Outdoor Dining Area based on this parking analysis
5. Tables, chairs and any other furniture/fixtures placed within Outdoor Dining Areas shall not obstruct or block access to fire protection equipment (i.e. fire hydrant, emergency exit doors). The Fire Department will review and approve the separation distance from the fire protection devices to the Outdoor Dining Area prior to its operation.
6. Exits and aisles shall not be obstructed at any time.
7. A currently tagged fire extinguisher (min. 2A 10BC) shall be present within 75 feet of travel distance from the Outdoor Dining Area.
8. A clearance of at least four (4) feet on all sides around fire protection equipment (i.e. fire hydrants, Fire department connections) and direct access from the equipment to the facility when applicable, shall be maintained.
9. 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 ADA and State of California accessibility standards. A minimum width of 48 inches shall be maintained at all times for an ADA compliant pathway or as specified within the local, Federal, and state ADA regulations. Spaces that are unable to meet this

requirement may be approved in writing by the City Engineer via the CERA process on a case-by-case basis. There is no guarantee that the proposed reduction in aisle width will be approved.

10. A straight ADA compliant path of travel (contiguous sidewalk) on the public rights of ways shall be maintained when adjacent to businesses with Outdoor Dining Area.
11. 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.
12. Proper clearance around fire emergency facilities (i.e. fire hydrants, exits) at a minimum of four (4) feet or as determined by the City, shall be maintained at all times.
13. 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.
14. 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.
15. 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.
16. All umbrellas shall be taken down and stored indoors at the close of each business day. The umbrellas must be kept in good shape, maintained, and replaced if fading occurs or if damaged.
17. Any tent, canopy, or membrane structure greater than 400 square feet requires a permit from the Oceanside Fire Department. All heating equipment will comply with the California Fire Code as modified by the City of Oceanside. Open flame heaters are not permitted under tents/canopies. Storage of propane tanks are prohibited inside of a structure or within ten 10 feet of combustible construction. 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. Any awning, etc. that is to be attached to an existing building MUST receive written approval from the City's Building Official via a permit.
18. 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.
19. Trash receptacles shall be provided and the Outdoor Dining Area shall be kept free of litter and other debris.
20. Outdoor eating and drinking venues must adhere to water pollution prevention practices to prevent trash, debris, food residue and other wastes from entering the storm drain system. The applicant is responsible for cleaning the permitted area. Clean-up activities must be in compliance with all pertinent City codes, including the Storm Water Runoff Control. The State Regional Water Quality Control Board may issue citations and fines to the business owner for failure to keep trash and other pollutants out of the storm drain system.

21. 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 in conformance with the City's Sign Ordinance requirements.
22. An Outdoor Dining Area located on private property shall be maintained and operated in accordance with a sidewalk café/outdoor dining area permit approved and issued by the City Planner.
23. The Outdoor Dining Area shall be on the same elevation as the sidewalk. Raised platforms or footings will not be permitted.
24. 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 and/or Building Divisions.

## **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 required 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 permanently 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. All permanent fixtures encroaching into the public right-of-way shall be removed by the business owner prior to the permanent closure of the business (encroachments not removed after the permanent closure of a business will be removed by the City at the business owner's expense). Upon such termination of the permit, either through the process noted above or termination by the City, the permit holder shall be responsible for the immediate removal of all items allowed under the permit at the business owner's cost. Failure to do so may result in the denial or revocation of a new CERA permit or Business License for the new location.
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 \$2,000,000.00 per occurrence/\$4,000,000.00 aggregate
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 five (5) 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 five (5) 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 Cafés 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. A contiguous path of travel along a public sidewalk must be maintained when adjacent to businesses with Outdoor Eating Areas. 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. 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.
7. 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.
8. 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 three (3) 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.
9. To maintain safety and movability for customers and servers, a minimum of three (3) feet of space shall be placed between tables, chairs and fences.
10. To maximize a linear unobstructed area, where physically possible, all fixtures and furniture should be placed in line with tree wells, streetlights, and other street furnishing elements.
11. 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.
12. 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.
13. At the permittee's expense, the City will annually inspect the Outdoor Dining Area or Sidewalk Café to ensure 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.

**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 frontage 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) Removal of public street trees to accommodate outdoor operations is not permitted.
- f) 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 six (6) feet or eight (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 City Planner.
- 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.
- e) Fences or walls shall not interfere with vehicle circulation and shall be appropriately buffered from parking areas.
- f) 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 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 proposed for the Outdoor Dining Area. 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 \$2,000,000.00 per occurrence/\$4,000,000.00 aggregate.
  - 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.

Attachments:

Attachment A: Application – Sidewalk Café / Outdoor Dining Area Permit

Attachment B: Sample Outdoor Eating Site Map