

CITY OF HUNTINGTON BEACH

CRITERIA FOR

OUTDOOR DINING ENCROACHMENT PERMIT IN PUBLIC RIGHT-OF-WAY AND PROPERTY

The City of Huntington Beach would like to ensure that businesses have the ability to operate safely and successfully during the COVID-19 economic recovery. In order to maintain social distancing and safety protocols and allow them to recreate some level of pre-COVID 19 capacity, the City is allowing encroachment into public property and right-of-way to allow dining outdoors on a temporary basis.

1. Applicability

- **Public Sidewalks, streets, parking lots and other publicly owned property.** Businesses with access to public properties may utilize portions of these areas for dining and curbside pick-up (if any).
- **Uses with Licenses or Approvals by Other Agencies.** Businesses that are subject to operating under other licenses or agency approval such as ABC or Health Care Agency, etc., shall continue to be subject to those operational standards.
- **Duration.** The Encroachment Permit for Emergency Outdoor Dining on Public Property shall terminate when: (a) the local emergency proclaimed on March 16, 2020, (as may be extended) is no longer in effect; or (b) the State and County allow resumption of normal and full commercial operations. As a use or business is permitted to resume full and normal operations, they shall abandon outdoor operations, relocate back indoors, and restore outside areas to original conditions.

2. Permit Process

- **Application.** Please complete an Outdoor Dining Encroachment Permit in Public Right-of-Way and Property, and return to the Public Works Department. Your application will be reviewed for completeness upon receipt by the Planning, Building, Public Works, Fire, and Police Departments and responded to within two business days. Please email your completed applications and fully dimensioned site plans to: PWE@surfcity-hb.org . Once the application is approved and signed off by all departments, the applicant will be issued an Outdoor Dining Encroachment Permit in Public Right-of-Way and Property.
- **Application Contents.** In addition to a completed application, include a fully dimensioned site plan showing:
 - The location of the outdoor commercial dining area(s) and pedestrian paths with social distancing measurements.
 - The vehicular and pedestrian circulation patterns, curb-side pick-up areas (if any), outdoor seating areas with seating/table plan and capacity clearly noted, pedestrian

- flow areas, any shade structures, proposed measures to secure outdoor use areas, and for controlling vehicle and pedestrian access to the area, and ADA path of travel.
- The location of equipment such as wash stations and hand sanitizing stations, stations for staff set up and service, waste receptacles, and any storage containers.
 - Location of electrical feed to any permitted temporary utility fixture.
 - The location of Fire protective equipment, fire lanes, and egress routes from buildings.
 - If area is enclosed with barriers, state the proposed occupant load and show the egress routes from the space.

3. Criteria for Outdoor Dining Encroachment Permit in Public Right-of-Way and Property

a. Permitted Locations (General).

- Temporary outdoor dining may occur within any publicly owned property and/or right-of-way such as public sidewalks, streets, parking lots, plazas, etc.), when the safety criteria described herein is met.
- The use of removable barriers to define outdoor dining areas, seating areas, curbside pick-up areas, pedestrian paths, vehicular paths is permissible. There is no limitation as to the type of temporary barriers, but they must clearly serve the intended purpose and ensure public safety.
- Removable barriers shall be not located in Fire Department access lanes, egress paths, or ADA pathways.

b. Public Sidewalks and Plazas

- Businesses may use the sidewalk or plaza directly in front of their business for emergency outdoor dining as long as the egress and ADA pathways are kept clear to the public way. The width of the outdoor commercial activity area shall not exceed the width of the frontage of the subject business. The depth of the outdoor commercial activity area shall depend upon the other required clearances described below. However, the city may approve alternative locations, lengths, and sizes of outdoor commercial activity areas for individual applications.
- Temporary outdoor commercial activity areas shall allow for at least a 4 ft. wide separation between the outdoor commercial activity area and any obstructions (note: some locations may require additional width if deemed a high pedestrian traffic area).
- The temporary outdoor commercial area and/or pedestrian path shall be physically separated from pedestrian and vehicular paths and clearly demarked by durable and removable barriers.
- The 4 ft. wide pedestrian path shall be measured from the outdoor commercial activity boundary to the curb face and other large obstructions (e.g. planters, utility boxes). No tables, or chairs, umbrellas or other fixtures shall be permitted within the pedestrian path.
- Access to public utilities, building entrances/exits, ADA facilities, fire hydrants, fire department connections, or fire extinguishers shall not be obstructed by barriers or seating.
- An unobstructed 14 foot fire access lane shall be available at all times and clearly marked.

- All barriers/dividers used to separate dining areas shall first be approved by the HBFD prior to installation and capable of being relocated quickly in the event of an emergency.
- The HBFD shall approve all furniture layouts for each dining space. The application shall include the specifications for the furniture that is being proposed for outdoor use capable of moving in the event of an emergency.
- Shade structures that exceed 400 square feet or 700 square feet when combined shall require an HBFD operational permit. If a permit is required, then the shade structures shall be fire resistant.
- Two points of egress are required if the proposed occupant loads exceed 49 people.
- Each space shall require a 2A:10B:C fire extinguisher.

c. Parking Lots

- Businesses may convert a portion of City owned parking lots near their business for temporary outdoor dining.
- No parking for disabled persons may be repurposed – unless replaced and demarked elsewhere in the center.
- Landscape areas shall not be used or converted for parking, outside seating, or dining activities.
- Vehicular paths and curbside pick-up areas must be clearly marked and signed to ensure pedestrian safety.
- The marked fire lane shall not be obstructed at any time. Modifications to the fire department access lanes must be approved by HBFD.

d. Tents and Other Shade Structures

- Tents that are 10 feet by 10 feet in size or smaller may be erected in the approved outdoor commercial activity areas. Tents or shade structures that are larger than 10 feet by 10 feet in size must comply with Chapter 31 of the California Fire Code and will require a temporary operational permit from the HBFD.
- If tents are staked, the parking lot must be repaired upon removal of the tent.
- If not staked, all tent legs must be weighted by a minimum of 30 lbs. and weights must be securely attached to canopy roof and canopy leg separately. Items that make acceptable weights include: 5 gallon bucket full of water, sand, or concrete or sand bags.
- Ropes and straps should be strong (bungee or rubber straps are prohibited).
- Weights must be on the ground and not dangling.
- Weights and lines must not pose a hazard and be clearly visible.
- For maximum safety, do not leave tents unsecured at any time.
- Heaters of any kind shall not be used under tents or umbrellas.
- Smoking is prohibited under tents and shade structures.
- Tents shall not have closed walls in place while open to the public and all sides should be open for airflow.

- For tents and other shade structures over 700 sq. ft. in area, a permit application must be obtained from the Fire Department and all tents shall be inspected prior to use.

e. Operational Criteria

- The hours of operation of the temporary outdoor commercial activity area for all business types shall be restricted to between 7:00AM – 10:00 PM only, including all daily set-up and break-down activities.
- Vehicular circulation/access lanes and all fire access roads must be kept clear at all times.
- Driveways must be kept clear at all times to prevent cars from stacking into streets. This may require that parking lot monitors be employed by the business and/or commercial center.
- There is no limit on directional and safety signage (e.g. one way, exit only, maintain social distancing, etc...) that does not contain advertisements.
- Space heaters are permitted if they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are at least five (5) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material. Space Heaters shall not be located within a tent or membrane structure and shall comply with the setback requirements stated below.
 - “Five Foot” Rule for heaters CFC § 603.4.2.1
 - Heaters shall not be placed closer than 5 feet from buildings.
 - Heaters shall not obstruct the clear path of exits and must be at least 5 feet from exit or exit discharges.
 - Heaters shall maintain a minimum of 5 feet clearance from any combustible material (e.g., umbrellas, sunshades, awnings, or similar attachments)
- No heating, cooking or open flames are permitted in the outdoor dining area.
- Tents, umbrellas and other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. No portion of an umbrella shall be less than six (6) feet, eight (8) inches (eighty (80) inches) above the sidewalk.
- No outdoor amplified noise or live entertainment shall be permitted.
- The business and property manager shall be responsible for cleaning up trash as needed but at a minimum of two times per day.

f. Outdoor Seating

- Maintain a 6 ft. separation between each table, including chairs.
- If people are at a table together, they do not need to be 6 ft. apart. Each table grouping needs to be 6 ft. from other tables measured from the back of each chair, chair-to-chair.
- Identify the total capacity of each outdoor area; the maximum number of customers or patrons permitted within the outdoor seating area shall be based on available seats; there shall be no standing permitted.
- The total capacity of dining areas shall not exceed the total interior maximum number of seats pre-COVID. For example, if a restaurant was limited to a maximum of 12 seats prior to

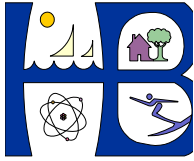
the pandemic, the total seating capacity of both indoor and outdoor seating areas shall not exceed 12 seats.

g. Alcoholic Beverages

- Prior to sales, service or consumption of alcoholic beverages the business shall have a valid ABC license. Businesses must only serve what is allowed on their current license type.
- Restaurants not currently permitted to sell alcohol will not be affected by this program.
- When the temporary stay-at-home orders have been lifted in Orange County by the State, a Copy of the completed COVID-19 Temporary Catering Authorization application that has been approved by ABC (available here: <https://www.abc.ca.gov/fourth-notice-of-regulatory-relief/>) shall be submitted.
- Alcohol may only be served in conjunction with food service in outdoor areas.
- Only an employee, and not a patron, will be permitted to carry an alcoholic beverage from the interior portion of the premises to said outdoor area, or from said outdoor area to the interior portion of the premises.
- Plastic cups only, no glasses or glass bottles allowed in the temporary outdoor dining area.
- A sign shall be posted in a conspicuous space at the exit point in the outdoor area, which shall state “NO ALCOHOLIC BEVERAGES BEYOND THIS POINT.”
- The outdoor area shall have a physical barrier of no less than 36 inches in height surrounding the outdoor dining area and designed in a manner that will prohibit passing of alcohol through the barrier.
- All areas where the sales, service, and consumption of alcoholic beverages will be permitted must be sufficiently illuminated to permit the identification of patrons.
- All owners, employees, representatives, and agents must obey all state, local, and municipal laws, and conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by a regulatory authority with jurisdiction over the premise at all times.

5. Revocation

- The City reserves the right to revoke, without a public hearing, any outdoor dining activity area that: (i) creates an obstruction to, or causes congestion of, pedestrian or vehicular traffic on the surrounding public right-of-way; (ii) if it finds the installation represents a danger to the health, safety or general welfare of the public; or (iii) a business violates the requirements of the permit as outlined.
- The applicant shall comply with all federal, state, and local laws. Violations of any of those laws in connection with the use will be cause for revocation of this permit.



CITY OF HUNTINGTON BEACH

APPLICATION FOR

OUTDOOR DINING ENCROACHMENT PERMIT IN PUBLIC RIGHT-OF-WAY AND PROPERTY

BUSINESS NAME: _____

ADDRESS: _____

APPLICANT NAME: _____

CONTACT PHONE NUMBER: _____

APPLICANT EMAIL: _____

INITIAL

REQUIREMENTS

- ___ 1. A dimensioned site plan showing the location of the outdoor dining areas and pedestrian paths with social distancing measurements, vehicular and pedestrian circulation patterns, curb-side pick-up areas (if any), outdoor seating areas with seating plan and capacity clearly noted, equipment such as wash stations and hand sanitizing stations, electrical feed to temporary fixtures, stations for staff set up and service, waste receptacles, storage containers, etc.
- ___ 2. Evidence of general liability insurance per the requirements of the Outdoor Dining Encroachment Permit in Public Right-of-Way and Property.
- ___ 3. Fire permit obtained. The HBFD will determine when an operation fire permit is required upon review of the site plan.
- ___ 4. City of Huntington Beach business license.
- ___ 5. This is only an application. The Outdoor Dining Encroachment Permit in Public Right-of-Way and Property is not effective until it is separately issued and signed by the applicant indicating and acknowledging his/her understanding of the conditions imposed therein.
- ___ 6. By signing and accepting the Outdoor Dining Encroachment Permit in Public Right-of-Way and Property, the applicant accepts the temporary benefits conferred by the permit subject to the conditions imposed therein. By accepting the right to operate pursuant to the Encroachment Permit, the applicant waives all rights to challenge any condition imposed as unfair or unreasonable.
- ___ 7. The applicant understands that there are inherent safety concerns when operating outdoors, especially in a street and associated parking areas, and by signing the Outdoor Dining Encroachment Permit in Public Right-of-Way and Property, the applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents and employees, from any and all liability or claims that may be brought against the City arising out of its approval of the Encroachment Permit.

I _____ (Print Name of Business Owner), owner of _____ (Print Name of Business), have read, understand, and will comply with all provisions of the criteria for **Outdoor Dining Encroachment Permit in Public Right-Of-Way and Property** (Attached). I understand that this permit will expire at the end of the local emergency.

APPLICANT SIGNATURE

PRINT NAME

DATE

CITY USE ONLY

NOTES AND SPECIAL CONDITIONS:

All conditions and requirements as outlined in the Criteria for Outdoor Dining Encroachment Permit in Public Right-of-Way is applicable.

The hours of operation of the outdoor dining area shall be restricted to between 7:00 AM - 10:00 PM only, including all daily set-up and break-down activities.

Fire: Any shade structures shall be fire retardant. Any shade structures over 400 sq. ft. will require additional fire permits. No heaters shall be used under or within 5 feet of combustible material. A fire extinguisher with a minimum rating of 2A10BC shall be mounted in outdoor area. All dining areas with <49 shall have a minimum of 1 exit, and areas with more than 50 will require at least 2 exits.

No hosing down of outdoor eating/seating areas shall be allowed. If water must be used, please mop. For staining and other instances that require pressure washing, the area shall be swept first. All wash water from pressure washing shall be fully contained (no discharge to storm drain or gutters) and recovered for disposal in sanitary sewer (i.e., mop sink, toilet, sewer clean-out). Outdoor dining and associated outdoor areas (such as areas where customers wait to be seated) shall be swept on a daily basis. Place at least one refuse receptacle adjacent to outdoor waiting area(s). No street receptacle shall be used by the dining operations.

All outdoor dining areas shall be designed such that flow in the street gutter is not impeded (i.e. decking, etc.)

The outdoor dining areas serving alcohol shall be enclosed with a minimum 36" high minimum semi-solid barrier to prevent the passage of alcohol. All dining area exit points shall be marked with a "NO ALCOHOL BEYOND THIS POINT" sign.

Accessible seating shall be required under the American's with Disabilities Act and the California Building Code. Applicants shall be responsible for providing accessible seating complying with the following: provided on an accessible route (no steps), provided at a rate of 5% of the total number of seats, Provided on a level surface with sufficient maneuvering space (If seating is located in the street a level platform may be needed), tables shall have knee and toe space under the table measuring 30 inches wide, 19 inches deep, and 27 inches high (tables with center posts will not comply).

Permittee shall be responsible for providing dining areas that maintain a 6 ft. separation between each table, including chairs.

Approved By:

Fire Department: Name _____ **Date** _____

Public Works Dept: Name _____ **Date** _____

Police Department: Name _____ **Date** _____

Building Division: Name _____ **Date** _____

Planning Division: Name _____ **Date** _____



CITY OF HUNTINGTON BEACH

COVID-19 TEMPORARY EMERGENCY USE PERMIT OUTDOOR COMMERCIAL ACTIVITY

Throughout the term of this temporary program, it shall be the Applicant/Private Property Owner's responsibility to **SELF-CERTIFY** compliance of the authorized area of use with all Federal, State, and Local laws, including but not limited to Americans with Disabilities Act (ADA) and the Accessibility requirements of the California Building Code.

ACKNOWLEDGEMENTS

1. Disabled/ADA compliant access within the property, to, and from the seating to the building, restrooms and parking areas shall be maintained.
2. Outdoor dining areas located on the sidewalk and/or in the Public Right-of-Way shall not obstruct pedestrian traffic or ADA access (4 feet clear from obstructions).
3. Accessible parking spaces shall not be enclosed within the dining area and shall remain available at all times.
4. If ramps are installed they shall comply with California Building Code and Americans with Disabilities Act (ADA).
 - Ramps shall be 48 inches wide,
 - Wheel guides (curbs) measuring a minimum of 2 inches in height shall be provided on each side of ramp surface,
 - Ramps shall have a maximum slope of 1:12 (8.33%),
 - The elevation change at between levels shall not exceed 6 inches unless compliant handrails are provided on each side of ramp.
5. Applicants shall be responsible for providing accessible seating complying with the following:
 - Provided on an accessible route (no steps),
 - Provided at a rate of 5% of the total number of seats,
 - Provided on a level surface with sufficient maneuvering space (If seating is located in the street a level platform may be needed),
 - Tables shall have knee and toe space under the table measuring 30 inches wide, 19 inches deep, and 27 inches high (tables with center posts will not comply).

Please initial that you have read and understood the Acknowledgments. _____ (Initial)

In consideration of being granted a Temporary Emergency Use Permit, both the undersigned, agree to indemnify, defend and save free and harmless the City of Huntington Beach, its officers, agents, employees and representatives from and against any and all claims, demands, loss, actions or causes of action which may be asserted, prosecuted or established against them or any of them, or whatsoever kind of nature, arising out of or attributable to, or in any manner connected with the temporary occupancy and including but not limited to claims for violation of the ADA and accessibility requirements of the CBC.

_____	_____	_____
Applicant (Print)	Applicant's Signature	Date
_____	_____	_____
Private Property Owner (Print)	Private Property Owner's Signature	Date

Note: Both Applicant and the Private Property Owner's name & signature are required.