



TEMPORARY OUTDOOR RESTAURANT DINING ENCROACHMENT PERMIT DURING COVID-19 EMERGENCY

The City of San Mateo has developed this Temporary Outdoor Restaurant Dining Encroachment Permit to assist our restaurant business in providing expanded seating capacity in the public right-of-way for in-person restaurant dining as allowed for by the State of California and San Mateo County COVID-19 Health Orders (Health Orders). Nothing in this encroachment permit is intended to permit activities that are not allowed under the Health Orders.

The intent of this permit is to be temporary in nature and to be in place only during the Health Orders restrict restaurant operations up until December 1, 2020. This permit is specifically intended for restaurants who want to create their own outdoor dining space areas in public parking spaces and/or for any restaurant providing alcohol service to an Outdoor Dining area. These areas will be under the sole control of the permit recipient and cannot be shared with other restaurants. **Encroachment permits are not required for restaurants without alcohol service using sidewalk areas or Downtown common parklets in the public right-of-way provided by the City.**

The following documents are required in order to process a permit for outdoor seating in the City of San Mateo:

- Temporary Outdoor Restaurant Dining Encroachment Permit Application
- Certificate of Liability Insurance and Endorsements (only required for restaurants providing alcohol service)
- Site Plan diagram of proposed outdoor dining lay-out

TEMPORARY OUTDOOR RESTAURANT DINING ENCROACHMENT PERMIT REQUIREMENTS:

1. Review the Following Conditions of Use: Outdoor restaurant or café seating located on public right-of-way during the COVID-19 Public Health Emergency must meet certain standards and conditions of use. Please read below to see if proposed site meets these requirements:

- **Adequate Clearance for Social Distancing.** Any outdoor table and seating must maintain a minimum sidewalk clearance and pedestrian through zone of **6-feet** from any physical obstruction to allow pedestrians to maintain adequate social distancing when passing by patrons seated at a table. The physical obstruction includes light poles, parking meters, fire hydrants, news racks, trees, or other barriers and entryways or display window of adjacent businesses, unless authorized by the adjacent business.
- **Allowed Right-of-Way Allocation.** Restaurants will be permitted to use the right-of-

way immediately adjacent to their frontage (sidewalk and/or on-street parking spaces). Restaurants may expand their space to include areas fronting adjacent storefronts if they get a signed letter granting permission from the owner of a storefront with open frontage. Use of the on-street parking spaces shall be limited to the striped dimensions of the parking stall areas and shall not encroach into the through travel lane.

- **Seating Area Allowance for Social Distancing.** The seating provided shall allow for patrons to maintain a minimum 6-foot social distance from the nearest group of other patrons seated in the same area.
 - **Temporary Fixtures.** Tables, seating, umbrellas, heating lamps, planters, platforms or flooring to achieve ADA compliance, and any approved physical barriers to mark the seating area are the only items permitted in the public right-of-way. These items must be designed to be removable and minimize tripping hazards.
 - **Other Limitations.** Other activities, such as outdoor food preparation or busing stations, are not permitted in the public right-of-way.
 - **Site Maintenance.** Seating areas shall be maintained free of litter, refuse and debris. The area shall be scrubbed and mopped to remove any food or drink stains on a daily basis by the permittee. Such cleaning shall be in accordance with the City's [Storm Water Management and Discharge Control Program](#), which prohibits any discharge other than storm water into the storm water drainage system. Failure to maintain the site shall be cause of termination of the encroachment permit.
 - **ADA Compliance.** Permittee shall comply with all requirements of the Americans with Disabilities Act and provide sufficient clearance and walkway space to allow safe access and egress.
- 2. Term.** The permit is valid through December 1, 2020 or until the State COVID-19 restrictions on restaurant service are lifted, whichever is sooner. The term may be extended at the City's discretion depending on the State's COVID-19 Orders.
- 3. Termination.** The City reserves the right to revoke a temporary outdoor dining permit that (i) 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 (ii) a business violates the requirements of the encroachment permit requirements or Health Orders.

The City may require the removal, temporary or permanent, of the sidewalk dining 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. 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.

- 4. Alcohol Service.** Restaurants and food establishments licensed by the State of California will be

permitted to sell and allow on-premise consumption of alcoholic beverages within expanded dining areas within the public right-of-way. The seating area for restaurants providing alcohol service must be physically separated from any adjacent outdoor dining areas of other establishments by a barricade or other means of separation. Alcohol service is only allowed under full-service conditions and alcoholic beverages consumed in the outdoor dining premises are not allowed to be provided in to-go containers. Establishments that serve alcoholic beverages in the outdoor dining area shall be required to meet all requirements of the Alcoholic Beverage Control Board and any other federal, state, or local laws and regulations governing the sale and consumption of alcoholic beverages.

5. For Restaurants providing Alcohol Service: Certificate of Liability Insurance and Endorsements.

Applicants shall provide evidence of commercial general liability (or comprehensive), liquor coverage, and property damage insurance providing endorsements showing the City of San Mateo as additional insured on the policy. See attached insurance standards.

Encroachment Permits issued shall be valid only during the term of liability insurance coverage. **It is the applicant's responsibility to submit updated insurance documents prior to the expiration date and annual renewal. Failure to do so will result in revocation of the permit.**

6. Include Site Plan Drawing. In order to review applications in a timely manner, please submit a site plan of the proposed Outdoor Dining area, no smaller than 8.5" x 11". Plans may be drawn by hand but must show all relevant dimensions or be drawn to scale with the scale clearly indicated on the plan. Please include the following:

- Identify location of business
- Show any existing sidewalk obstructions (fire hydrants, trees, light poles, bike racks, utilities, newspaper racks, fixed/built-in seating, utility boxes etc.)
- Show the proposed seating layout
- Photographs of the business frontage

7. Submit Completed Application. Please submit all documents to Jennifer Chen, Economic Development Manager at jchen@cityofsanmateo.org with subject line: Encroachment Permit [Insert Restaurant Name].

8. For More Information: Questions or additional information regarding the Temporary Outdoor Restaurant Dining Encroachment Permit process, please contact Jennifer Chen, Economic Development Manager at jchen@cityofsanmateo.org or (650) 522-7009.

Attachments:

- Temporary Outdoor Dining Permit Application
- Insurance Standards for restaurants providing alcohol service
- Sample site diagram

**CITY OF SAN MATEO-DEPARTMENT OF PUBLIC WORKS
TEMPORARY OUTDOOR RESTAURANT DINING ENCROACHMENT PERMIT
APPLICATION (Page 1 of 2)**

Business Name _____	
San Mateo Business License Number _____	
Address _____	Contact Phone _____
City _____ Zip _____	Alternate Phone _____
Email address _____	
Contact Person _____	

1. Property Owner Contact _____

2. Property Owner Phone/email _____

3. Describe where the tables and chairs will be placed

4. Will your restaurant be providing alcohol service? ____ Yes ____ No

Please include the following attachments:

- Site Plan (does not need to be done by architect, a simple dimensioned or to-scale drawing is adequate)
- Photographs of the business frontage
- For restaurants providing alcohol service only:** Evidence of Commercial General Liability (or Comprehensive), liquor, and property damage Insurance for one year endorsing the City of San Mateo as additional insured with the City's address as the certificate holder.

**CITY OF SAN MATEO-DEPARTMENT OF PUBLIC WORKS
TEMPORARY OUTDOOR RESTAURANT DINING ENCROACHMENT PERMIT
APPLICATION (Page 2 of 2)**

**COMPLETE AND SUBMIT APPLICATION TO:
Jennifer Chen at jchen@cityofsanmateo.org, 650 522.7009**

I _____ hereby affirm that (Name)

1. I will abide by all regulations and conditions set forth in the actual encroachment permit.
2. There shall be no liability on the City or upon any of its officer, agents or employees for any damage by the permittee from any cause arising out of permitted activities. Furthermore, I agree to indemnify, defend and hold harmless the City of San Mateo and its officers and employees from any liability arising out of permitted activities.
3. For restaurants providing alcohol service, I understand that I am responsible for obtaining a permit from ABC and complying with the ABC permit conditions. It is my responsibility to maintain full and continuous insurance coverage per the requirements of this permit and not allow any policy to expire. Failure to do so will result in revocation of the encroachment permit.

(Name)

(Date)

Signature of Applicant/Authorized Agent

The applicant understands and agrees to comply with all conditions of this application for an encroachment permit for temporary outdoor restaurant dining and other local, state and federal laws governing accessibility as they apply to this permit.

Signature of Authorized Applicant/Agent

Date

Reviewed and approved by staff	
Name	Date

CITY OF SAN MATEO
STANDARDS FOR INSURANCE
TEMPORARY OUTDOOR RESTAURANT DINING ENCROACHMENT PERMIT

Applicant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Applicant's operation and use of the public right-of-way. The cost of such insurance shall be borne by the Applicant.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including liquor liability coverage, products and completed operations, property damage, bodily injury and personal & advertising injury **with limits no less than \$1,000,000 per occurrence**. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers' Compensation:** Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance **with limits of no less than \$1,000,000 per accident** for bodily injury or disease. (for Applicants with employees).
3. **Property Insurance:** Property insurance against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If the Applicant maintains broader coverage and/or higher limits than the minimums shown above, the City of San Mateo requires and shall be entitled to the broader coverage and/or higher limits maintained. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of San Mateo.

OTHER INSURANCE PROVISIONS:

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City, its elected and appointed officials, employees, and agents, are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the permittee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the permittee's insurance (at least as broad as ISO Form CG 20 10).

Primary Coverage

For any claims related to this permit, the permittee's insurance coverage shall be primary

insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by City, its elected or appointed officials, employees, or agents shall be excess of the permittee's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

Waiver of Subrogation

Permittee hereby grants to City a waiver of any right to subrogation which any insurer of said permittee may acquire against City by virtue of the payment of any loss under such insurance. Permittee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City. At the option of the City, either: the permittee shall obtain coverage to reduce or eliminate such self-insured retentions as respects the City, its elected and appointed officials, employees, and agents; or the permittee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

Verification of Coverage

Permittee shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before permitted activities begin. However, failure to obtain the required documents prior to the work beginning shall not waive the permittee's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

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SAMPLE SITE DIAGRAM

