



TEMPORARY OUTDOOR DINING AUTHORIZATION APPLICATION

COMMUNITY DEVELOPMENT DEPARTMENT

8130 Allison Avenue, La Mesa, CA 91942

Phone: (619) 667-1177 • Fax: (619) 667-1380 • www.cityoflamesa.us

*** STAFF USE ONLY ***		
Project No.:	_____	
Date Recd.:	_____	By: _____

Business

Name: _____ Address: _____

Contact Person: _____

Email: _____ Phone: _____ Fax: _____

Property Owner (for dining area on private property only)

Name: _____ Company: _____

Address: _____ City: _____ State: ____ ZIP code: _____

Email: _____ Phone: _____ Fax: _____

Dining area location (check all that apply): Public Right-of-Way (ROW) Private Property

Proposed Dining Area

Description: _____

List type and number of any furnishing, equipment, structures, or fixtures proposed:

<u>Type</u>	<u>Number</u>	<u>Type</u>	<u>Number</u>
Tables	_____	_____	_____
Chairs	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Tent or covering proposed: Yes No If yes, area of tent or covering: _____

If the dining area will occupy parking area, indicate the number of parking spaces:

Existing number: ____ Proposed to be occupied: ____ Remaining usable spaces: ____

Temporary Outdoor Dining

The City of La Mesa issued Executive Order 3-2020 on July 9, 2020, which temporarily allows the use of public and private outdoor areas by eating establishments for dining, provided those establishments obtain written authorization from the Director of Community Development and comply with all social distancing and other COVID-19 related health orders and all other City, County (e.g., emergency orders), State (e.g., Alcoholic Beverage Control) and Federal laws (e.g., Americans with Disabilities Act). This Executive Order comes after the state suspended indoor dining for San Diego County due to rising COVID-19 cases effective July 6, 2020. Temporary outdoor dining regulations promulgated pursuant to the Order are attached to this application and apply to all authorized temporary outdoor dining areas (Attachment A). Businesses that propose temporary outdoor dining areas within the public right-of-way must provide insurance in accordance with the Sidewalk Café Insurance Requirements (Attachment B). There is no fee charged to receive authorization to use public and private outdoor areas for dining.

Indemnification and Hold Harmless Statement

In consideration of the City processing this application, the Applicant shall defend, indemnify and hold harmless the City, its elected and appointed officers and employees, from and against any claims, suits, actions or proceedings, judicial or administrative, for writs, orders, injunction or other relief, damages, liability, cost and expense (including without limitation attorneys' fees) arising out of City's actions in processing, issuing, or approving Applicant's Temporary Outdoor Dining Authorization, or in exercising any discretion related thereto including but not limited to the extension of due process rights, except only for those claims, suits, actions or proceedings arising from the sole negligence or sole willful conduct of the City, its officers, or employees known to, but not objected to, by the Applicant. Applicant's indemnification shall include any and all costs, expenses, attorney's fees and liability incurred by the City, its officers, agents, or employees in defending against such claims, whether the same proceed to judgement or not. Further, Applicant, at its own expense, shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents, or employees. Applicant's indemnification of City shall not be limited by any prior or subsequent declaration by the Applicant. At its sole discretion, the City may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition.

Application Completeness and Accuracy Statement

I certify that I have personal knowledge of the information stated in this application and all accompanying plans, exhibits, and other information submitted for this application and that the same are accurate, true, and complete to the best of my knowledge. I have the necessary authority to sign and submit this application. **I recognize and acknowledge that the temporary outdoor dining area shall be operated in compliance with the Temporary Outdoor Dining Regulations, including compliance with all applicable orders of the State and the County Public Health Officer and shall conform to all State and County Health and Safety Protocols.** I acknowledge that I have read and understand the Indemnification and Hold Harmless Statement.

ATTEST:

Signature of Business Owner

Date

Print Name and Title of Signatory

PRIVATE PROPERTY OWNER AUTHORIZATION (if applicable):

Signature of Property Owner

Date

Print Name and Title of Signatory

Submittal Requirements

All of the items listed below must be submitted to process the Temporary Outdoor Dining Authorization Application.

1. Completed and signed Temporary Outdoor Dining Authorization Application.
2. Site plan showing all furnishings, fixtures, and structures. As applicable, identify sidewalks, parking spaces, drive aisles, street furniture, and any utility equipment such as fire hydrants, light poles, and electrical transformers. Dimension the outdoor dining area and sidewalk and pedestrian access clearances.
3. Applications proposing to utilize area within the public right-of-way (ROW) must provide general liability insurance in accordance with the Sidewalk Café Insurance Requirements.

Application Review Process

Submit applications by email to planning@cityoflamesa.us. The applicant will be informed by email if the application is accepted or is insufficient for processing. The applicant will be informed of the application's deficiencies if it is determined to be insufficient. Substantially complete applications will be accepted for processing and review. Staff will review the application and notify the applicant of any modifications or corrections needed as quickly as possible.

Once the application is submitted and accepted, the applicant may proceed to implement the submitted plan even if the staff review is not complete. When the plan has been implemented and the dining area is in place, the site must be inspected by the Building Official, Fire Marshall, and/or the Public Works Inspector, as applicable. Revisions or modifications to the plan may be required through the review or inspection processes. The dining area must receive inspection approval by applicable inspecting staff prior to commencing operation.



TEMPORARY OUTDOOR DINING REGULATIONS COMMUNITY DEVELOPMENT DEPARTMENT

8130 Allison Avenue, La Mesa, CA 91942

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These Temporary Outdoor Dining Regulations constitute dining specifications pursuant to Director of Emergency and Disaster Executive Order No. 3-2020, dated July 9, 2020, and shall be in effect until the provisions of the San Diego County Public Health Order restricting indoor dining are lifted. The Director of Emergency and Disaster may rescind these regulations at any time.

1. Restaurants may expand dining areas to include outdoor spaces including but not limited to adjacent walkways, sidewalks, and onsite and street parking areas in accordance with these Regulations and approval of a Temporary Outdoor Dining Authorization by the Community Development Director. The permit may be modified or revoked for noncompliance with the terms of the permit or any other local, state, or federal law. The applicant shall cooperate with City staff should any modifications to the operation or layout of the outdoor dining area be needed to improve public safety, reduce impacts of the operation on nearby properties, or otherwise protect public health, safety, or welfare.
2. **The operation of a temporary outdoor dining area shall maintain compliance with all applicable orders of the State and the County Public Health Officer and shall conform to all State and County Health and Safety Protocols.**
3. The business providing the outdoor display or service area is responsible for obtaining any and all necessary permit or authorizations necessary for its operation from all applicable permitting or authorizing agencies, including but not limited to the San Diego Department of Health.
4. Property owner permission is required for outdoor dining areas on private property. Private properties with more than one dining establishment are encouraged to apply for a Temporary Outdoor Dining Authorization that addresses all dining establishments on the property.
5. Temporary outdoor dining areas in the public right-of-way (ROW) shall provide general liability insurance in accordance with the Public Works Department Sidewalk Café Insurance Requirements. Additionally:
 - a. Safety barriers consisting of K-rail as listed on City specifications, or otherwise approved by City in writing, shall be placed between vehicle travel lanes and any proposed dining area within the public street parking area, without in any way obstructing the travel lanes, as shown on the site plan.
 - b. No trash, storage, or food preparation is permitted in the ROW.
 - c. All items related to the temporary dining area must be removed from the ROW and placed in a secured area daily when the associated restaurant is not operating.
 - d. Discharge of food and debris onto the sidewalk, street, gutter, and /or storm drain shall be prevented. When temporary dining ceases, the public right-of-way shall be cleaned of any food, debris, oils, stains, or other marks or materials.
6. The amount of parking area or sidewalk area that may be converted to temporary outdoor dining area will be determined on a case by case basis based on onsite and nearby offsite conditions.
7. The temporary outdoor dining area shall be placed adjacent to the associated business.
8. Sidewalks and required walkways shall be maintained at a minimum width of four feet.
9. Sight visibility triangles shall be maintained at vehicle ingress/egress points.
10. Existing fire department access shall be maintained and occupants shall have the proper means of egress to exit the building and dining areas.
11. Parking lot dining areas must provide physical barriers or separations to protect customers from vehicles.
12. The seating plan and layout of the temporary outdoor dining area shall comply with applicable ADA regulations to the specification of the Building Official.
13. Furnishings shall not obstruct entrances, exits, fire lanes, hydrants, drive aisles, or pedestrian or handicap access, or conflict with other requirements of the Building and Fire codes.
14. Tents and coverings, if applicable, must have the appropriate flame retardancy to the specification of the Fire Marshal.
15. The hours of the temporary outdoor dining area shall be the same as the associated establishment or 7:00 a.m. to 10:00 p.m., whichever is more restrictive.
16. Businesses with existing ABC licenses may serve alcohol with ABC approval of a Temporary Catering Permit.
17. No entertainment of any sort, or any other activity that would promote gathering, is allowed.
18. Smoking is prohibited in any temporary outdoor dining area.
19. Outdoor dining areas shall not be cleaned and/or washed off with water, unless it is fully captured on site, to avoid runoff into any drainage system or storm drain.



Sidewalk Cafe Insurance Requirements

Per Chapter 18.18.070 of the La Mesa Municipal Code, "A *Public Liability Insurance Policy shall be required before approval of an encroachment permit. Such liability insurance shall be provided in a form and an amount acceptable to the City Engineer and City Attorney. This policy must be maintained at all times*". Please submit the following.

- 1) Limits of insurance:
 - a) General Liability insurance with limits of not less than \$1,000,000 for bodily injury and property damage; \$1,000,000 for personal and advertising injury; \$2,000,000 products and completed operations aggregate and \$2,000,000 general aggregate
 - b) Liquor Liability insurance endorsed with limits of liability of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. **Only required if alcoholic beverages are to be sold, served or furnished.**
 - c) Workers' Compensation insurance as required by law.
 - d) Employer's Liability insurance with limits of liability of not less than \$1,000,000, each accident; \$1,000,000 disease each employee; and \$1,000,000 disease policy limit. **Only required if Permittee has employees.**

- 2) Certificate holder:

City of La Mesa
Attn: Risk Management
8130 Allison Avenue
La Mesa, CA 91942

- 3) The certificate of insurance shall read, "The City of La Mesa, its elected officials, officers, officials, employees, agents and volunteers are additional insured as respects to General Liability and Liquor Liability insurance. This insurance is primary, and our obligations are not affected by any other insurance carried by such additional insured whether primary, excess, contingent, or on any other basis. Waiver of subrogation for Workers' Compensation insurance as respects to the City of La Mesa, its elected officials, officers, officials, employees, agents and volunteers."

- 4) Additional insured endorsement, with primary and non-contributory language or a primary and non-contributory insurance endorsement, for General Liability insurance. The additional insured shall read, "The City of La Mesa, its elected officials, officers, officials, employees, agents and volunteers". Examples of primary insurance language are: "Such insurance as is afforded by the policy is primary and any other insurance shall be excess and not contribute to the insurance afforded by this endorsement" or "This insurance is primary, and our obligations are not affected by any other insurance carried by such additional insured whether primary, excess, contingent, or on any other basis".

- 5) Additional insured endorsement, with primary and non-contributory language or a primary and non-contributory insurance endorsement, for Liquor Liability insurance. The additional insured shall read, "The City of La Mesa, its elected officials, officers, officials, employees, agents and volunteers". Examples of primary insurance language are: "Such insurance as is afforded by the policy is primary and any other insurance shall be excess and not contribute to the insurance afforded by this endorsement" or "This insurance is primary, and our obligations are not affected by any other insurance carried by such additional insured whether primary, excess, contingent, or on any other basis".

- 6) Waiver of subrogation endorsement for Workers' Compensation insurance shall read, "The City of La Mesa, its officers, elected officials, employees, agents and volunteers".