



Standard Conditions of Approval for
Temporary Encroachment Permits for
Outdoor Seating in the Public Way

1. **Permit Validity.** Temporary Encroachment Permits for outdoor seating in the public way are limited to full-line and specialty restaurants and are valid until **December 31, 2020** or until dine-in restaurant operations return to normal capacity, whichever occurs first. The Temporary Encroachment Permit shall be displayed on-site in plain view to City personnel and the general public.
2. **Liability Insurance.** A certificate of insurance and an endorsement for the term of the encroachment in the amount of **\$2,000,000** in combined single limit insurance for personal injury and/or property damage per occurrence and **\$4,000,000** in aggregate naming *“The City of Carmel-By-The-Sea, its elected officials, officers, agents and employees are additionally insured under the policy.”* The insurance shall be maintained for the duration of the Encroachment Permit. Failure to maintain liability insurance will result in revocation of the Encroachment Permit.
3. **Taxes and Assessments.** Restaurants shall remain current on all taxes and assessments during the term of this Encroachment Permit.
4. **Safety Protocols.** It is the applicant’s responsibility to be informed of, and comply with, all industry guidance for restaurants published by the Center for Disease Control (CDC), State of CA Governor’s Office, California Department of Public Health and the Monterey County Health Officer.
5. **Alcohol Service.** Full-line restaurants may serve alcohol to patrons dining within outdoor seating areas in the public way so long as,
 - a. The outdoor seating area meets all of the City’s requirements; and
 - b. The proper ABC license is obtained and displayed on-site in plain view to City personnel and the general public.Alcohol can only be consumed within the boundaries of the outdoor seating area and is not permitted to be served in disposable or to-go cups.
6. **Outdoor Seating Maintenance.** The applicant is responsible for,
 - a. Sanitizing and disinfecting the outdoor seating area after each customer;
 - b. Providing a trash receptacle for use by patrons (separate from city trash receptacles);
 - c. Keeping the outdoor seating area clean and free of trash and debris at all times; and
 - d. Thoroughly cleaning outdoor seating areas at the end of each day, properly disposing of trash and cleaning up any food spills.
7. **Outdoor Seating – Parking Spaces.** Outdoor seating areas are limited to two (2) adjacent parking spaces with no more than eight (8) seats per space (16 seats total) so long as social distancing protocols are met, unless otherwise approved by the City. Outdoor seating shall not be placed in any loading zone or Americans with Disabilities Act (ADA) accessible parking space. All three (3) sides of the seating area shall be enclosed with barriers that meet the following criteria:

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- a. Must be between 3-feet and 4-feet tall, unless otherwise approved by the City;
 - b. Must be entirely contained within the curb side of the parking “t”s;
 - c. Each side must be set back at least 4 feet from intersections.
 - d. Must weigh at least 50 pounds; and
 - e. Flower pots may supplement barriers but are not acceptable as a primary barrier.
8. **Outdoor Seating - Sidewalk.** Up to two, tables with two seats per table may be located along a sidewalk if the City determines there is sufficient space for both patrons, servers, passing pedestrians, and accessibility access.
9. **Outdoor Seating Layout.** The outdoor seating layout shall be established, and remain consistent with, the approved temporary Encroachment Permit. At no time shall the entry/exit to any tenant space, nor any public sidewalk, nor any path of travel providing emergency egress, be blocked by outdoor seating.
10. **Seating Area Use Regulations.**
- a. The outdoor seating area may be used for to-go/take-out orders and/or table service.
 - b. At no time shall employees providing service to the tables obstruct or otherwise block the public sidewalk.
 - c. Music (live or amplified), lighting (excluding solar), and/or signage of any type is NOT permitted, unless otherwise approved by the City.
 - d. Smoking shall be prohibited at all times within outdoor seating areas.
 - e. Plastic tables and/or chairs are NOT permitted.
 - f. Umbrellas may be allowed subject to the following standards, i) the fabric must be a neutral/earth tone color; ii) umbrellas shall not extend into the vehicle travel lane or pose a safety risk to pedestrians on the sidewalk; and, iii) the base of the umbrella must be heavy and secure such that it does not tip over but shall not be affixed to public property.
 - g. Propane heaters may be allowed if a proper location for propane storage can be demonstrated. Open flame fire pits are prohibited.
 - h. Umbrellas, heaters and tablecloths (if used) shall be removed at the end of each day and stored out of the public right-of-way in a secure location.
11. **Public Infrastructure.** Permanent attachments to public infrastructure including, but not limited to, streets, sidewalks, curbs, trash cans, light poles, traffic signs, trees, bike racks, fire hydrants, etc. are NOT permitted. Damage to public infrastructure as a result of the outdoor seating may result in revocation of the encroachment permit and must be repaired to the satisfaction of the City at applicant’s expense.
12. **Modifications.** After an Encroachment Permit is issued, any proposed modifications to the outdoor seating area shall be submitted to the Community Planning & Building Department for approval.
13. **Other Permits and Approvals.** It is the applicant’s responsibility to secure any applicable permits or approvals from other agencies including, but not limited to, Alcoholic Beverage Control (ABC), Monterey County Health Department, and/or the Monterey Peninsula Water Management District (MPWMD).

14. Permit Revocation. The City reserves the right to revoke the Encroachment Permit if it is determined the seating area poses a risk to public safety or if any term of the permit is violated.

15. Indemnification. The applicant agrees, at his or her sole expense, to defend, indemnify, and hold harmless the City, its public officials, officers, employees, and assigns, from any liability; and shall reimburse the City for any expense incurred, resulting from, or in connection with any project approvals. This includes any appeal, claim, suit, or other legal proceeding, to attack, set aside, void, or annul any project approval. The City shall promptly notify the applicant of any legal proceeding, and shall cooperate fully in the defense. The City may, at its sole discretion, participate in any such legal action, but participation shall not relieve the applicant of any obligation under this condition. Should any party bring any legal action in connection with this project, the Superior Court of the County of Monterey, California, shall be the situs and have jurisdiction for the resolution of all such actions by the parties hereto.

*Acknowledgement and acceptance of these Standard Conditions of Approval.

Applicant Signature

Print Name

Date

Once signed, please return to the Community Planning & Building Department.