



**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Mark Brodeur, Community & Economic Development Director  
**MEETING DATE:** September 17, 2014  
**SUBJECT:** Outdoor Dining & Parklet Design Standards  
**CEQA:** This does not constitute a “project” under the California Environmental Quality Act (CEQA)

**RECOMMENDATIONS**

1. Adopt the principles proposed to guide development of standards for the design of outdoor seating and for parklets, with any desired changes.
2. Direct the Planning Commission to review and approve complete design standards for outdoor seating and parklets, based on best practices from selected cities adapted for use in Pacific Grove, and to recommend necessary changes in (a) PGMC Title 15, *Streets and Sidewalks*, (b) Title 23, *Zoning*, and (c) any other appropriate title.

**DISCUSSION**

Outdoor dining and parklets have been promoted by the Community & Economic Development Department in an effort to make the downtown and Central Avenue commercial areas livelier and to attract more business. Creating “action on the street” is one way to provide shopping interest and curiosity. Outdoor dining areas are also pleasing to most restaurant patrons, particularly during clear, summer-like weather. Outdoor seating areas along sidewalks are recognized to be part of a “complete street” where pedestrians, private businesses, and all modes of transportation can share the public right-of-way. (For example, the cities of Los Angeles, Boston, and Seattle encourage sidewalk cafes as part of their complete streets policy.)

Recent design approval was granted for an outdoor seating area in front of Café Ariana at 543 Lighthouse Avenue and a parklet at Happy Girl Cafe. Both have stirred some controversy regarding what should, and should not, be allowed regarding sidewalk cafes and parklets in the downtown. The Code currently does not address these issues.

The purpose of this report is to obtain Council approval of certain key principles and then obtain review and Planning Commission approval of detailed *Outdoor Dining Standards* and *Parklet Design Standards* to better address the issues of design of these two pedestrian-friendly initiatives.

**Outdoor Dining.** As indicated in the draft Outdoor Dining Standards (Attachment 1), the City should consider the following primary aspects of outdoor dining design parameters in its deliberations:

- (1) Required minimum pedestrian clearance within the sidewalk. *Staff recommends 48”*
- (2) Placement of the seating area – whether to allow it in the “frontage zone” immediately adjacent to the building wall, or the “furnishings zone” immediately adjacent to the curb. *Staff recommends adjacent to building.*
- (3) In addition to tables and chairs, whether other types of street furniture should be allowed, e.g. umbrellas, portable heaters, enclosures, and planters. *Staff recommends all be allowed, with design guidelines to govern.*
- (4) Whether to allow any kind of attachment to the sidewalk. *Staff recommends sleeve and bolt or heavy base plate.*
- (5) Whether a city license fee or rental charge is warranted. *Staff recommends a two-part fee: approximately \$100 in cost recovery for processing of permit/inspection and \$100 for a license to use the public right of way.*
- (6) Whether any or all street furniture needs to be removed by at close of business. *All furniture should be removable. No permanent furniture or other fixtures should be allowed.*
- (7) What approval process is needed, e.g. submittal of plans and approval by the Community Development Director, or approval to a higher body, and any kind of notice to nearby businesses/properties. *Staff recommends CD Director approval for proposals that are consistent with the Guidelines; Notice of any request should be posted on site.*
- (8) Terms for revocation of the permit and license. *Staff recommends justified complaints be the primary basis for revocation.*

**Parklets.** As indicated in the draft Parklet Design Standards (Attachment 2) the City should consider the following aspects of parklet design parameters in its deliberations:

- (1) Which streets may have a Parklet. *Staff recommends Lighthouse and Central Avenues only, at this time.*
- (2) Whether a city license fee or charge is warranted. *Staff recommends a two-part fee: approximately \$300 in cost-recovery for permit processing and inspection and \$100 for a license to use the public right of way.*
- (3) Whether a limit on the total number of parklets is warranted during the pilot program. *Staff recommends 3 maximum on Lighthouse Ave. and 2 maximum on Central Ave.*
- (4) Whether a post-installation inspection is warranted. *Staff suggests inspection.*
- (5) Whether to require neighboring property support. *Staff recommends neighbor letters.*
- (6) Whether to ever allow the parklet to occupy more than 2 parking spaces. *Staff recommends no at this time.*

Adoption of agreed-upon standards may require some modifications to the Zoning Code, to Title 15, *Street and Sidewalks*, and possibly other sections of the Municipal Code. For example, Section 15.16.045 (a) currently limits furniture to “tables, benches, and chairs.” Similarly, Section 15.16.045 (b) prohibits attaching any furniture to the sidewalk. With staff support, the Planning Commission can complete a thorough review and recommend any needed changes.

### **FISCAL IMPACT**

Allowing some kind of outdoor seating opportunities should result in a positive fiscal impact (additional sales tax revenues) for the City by adding patronage in the downtown area.

### **ATTACHMENTS**

1. Draft Outdoor Dining Guidelines
2. Draft Parklet Design Guidelines
3. Outdoor Seating Standards from Select Cities

RESPECTFULLY SUBMITTED:

*Mark Brodeur*

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Mark Brodeur  
Community & Economic Development Director

REVIEWED BY:

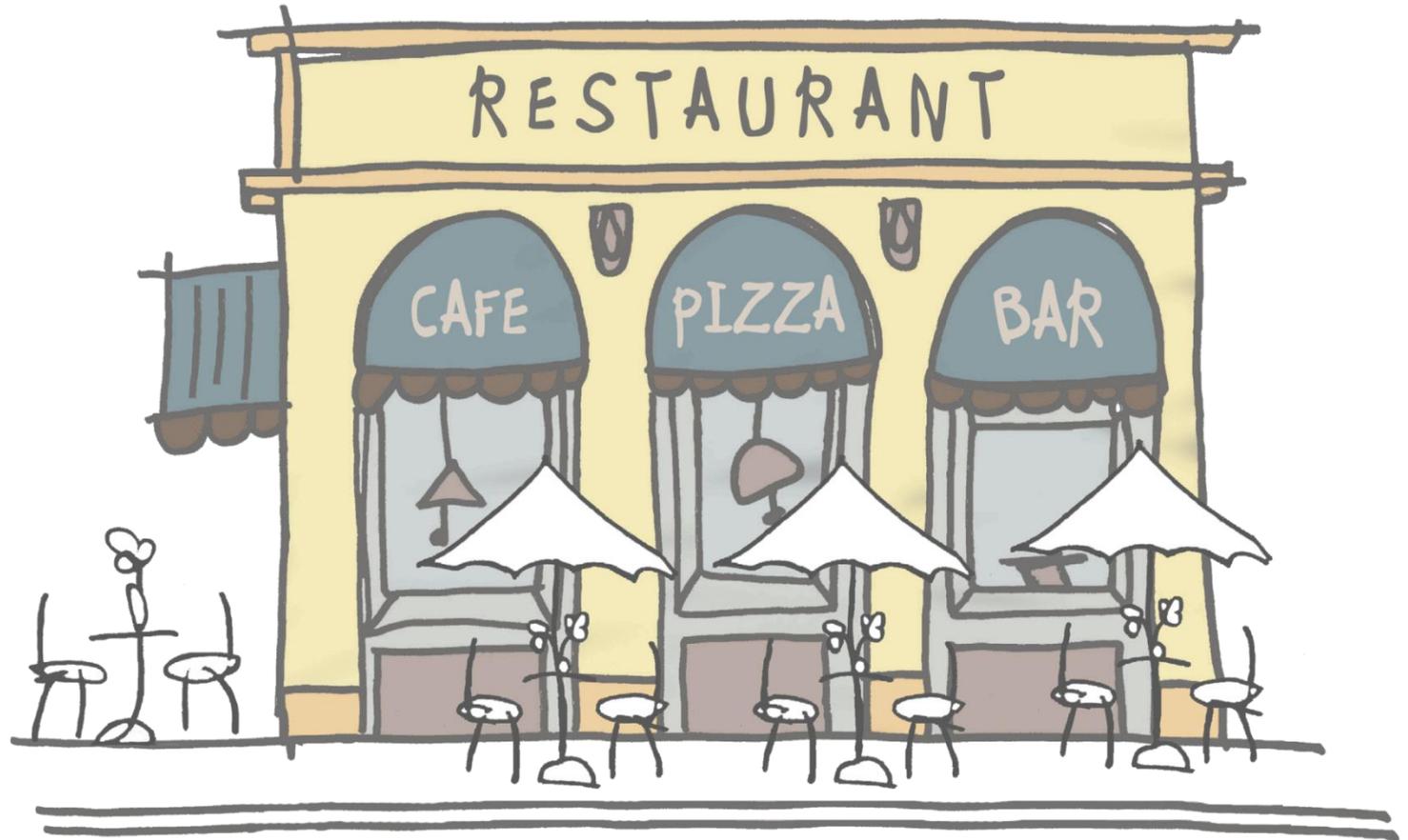
*THOMAS FRUTCHY*

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Thomas Frutchey  
City Manager



Pacific Grove's  
**DRAFT** Outdoor Dining  
DESIGN STANDARDS



Fall 2014

PREPARED BY THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT OF THE CITY OF PACIFIC GROVE, CALIFORNIA

## Purpose

The intent of the design standards for outdoor dining is to ensure quality outdoor seating area, the appropriate use of the public sidewalk for outdoor dining and safety for pedestrians in Pacific Grove.

## Application Materials

Applicant must submit the following:

**Written letter.** A brief description that includes the name of the restaurant, a description of proposed outdoor dining space and number of seats.

**Site Plan.** A plan showing the proposed outdoor dining space, to scale, including the sidewalk clearance requirement, elevations, furniture.

**Photos or Drawings.** Submit color photos, renderings or graphics showing the setup, type of furniture and materials of barriers.

## Process

The demarcation of outdoor dining space on the public sidewalk must meet these design standards and is permitted through an administrative approval process approved by the Community & Economic Development Director.

## Steps for Approval

- 1) Schedule an informal meeting with Community & Economic Development Department to go over your ideas for your outdoor dining. Call (831) 648-3183 to schedule a meeting.
- 2) Contact the Community and Economic Development Department for an application at (831) 648-3183 or by coming to City Hall, located at 300 Forest Avenue.
- 3) Provide proof or public liability insurance in the amount of one million dollars, naming the City as an additional insured.

## Location

The location of the outdoor dining space shall be immediately adjacent to the restaurant façade and contained within the front sidewalls of the restaurant. The outdoor dining space shall not encroach on to the sidewalk of the adjacent properties. Further, the space may not project more than half the width of the sidewalk.

## Barriers

Barriers are meant to demarcate the section provided for tables, chairs and umbrellas, for both temporary and permanent use. Barriers may include but not limited to removable (may be bolted down or with weighted base plate) fences, freestanding fences, hedges, planters, removable columns, and other well designed solutions. See figures 1 & 2 for acceptable barrier styles.

## Prohibited Barriers

No chain link fencing, chicken wire or cyclone fencing. No plywood or similar solid wood material. No advertising is allowed on barriers.



Figure 1. Wood and metal planters as a barrier.



Figure 2. Freestanding glass & metal fence.

## Barriers (cont.)

### Height of Barriers

The height of any barrier may not exceed 36 inches. See Figure 3.



Figure 3. Max height of barriers is 36 inches.

### Planters

In the case of planters, the planter itself shall not exceed 36 inches high; the plant (live or artificial) height shall not exceed 5 feet measured from the ground. See Figure 4.



Figure 4. Max. planter and plant height is 5 feet.

### Enclosed Outdoor Dining Barriers

The weather in Pacific Grove can get cool and wet. Some restaurateurs may want to partially enclose the outdoor space for customer comfort. The City reserves the right to review final design for requests that include vertical elements, awnings, canopies and removable side walls enclosing the outdoor dining space.

## Restoration of Right of Way

The business receiving the permit is responsible for removing the improvements and restoring the sidewalk to its original condition should, for any reason, the permit be revoked.

# Sidewalks

## Minimum Width of Sidewalk Area

There are federally mandated sidewalk clearances for continuous pedestrian/handicapped access along the public sidewalk that must be provided.

Measured from the exterior barrier to the edge of curb or any permanent pole, hydrant, tree, planter or any other obstruction, the minimum clearance distance to be considered shall be forty-eight (48) inches; The City may require more where warranted.

## Modifications to Sidewalks

The owner of the outdoor dining may, with City approval, make improvements to the public sidewalk such as staining the concrete, patching holes or cracks and generally improving the quality and appearance of the surface. Decks may be approved on a case-by-case basis when the public right of way is uneven, unpaved or in total state of disrepair. All decks shall be removed if outdoor dining ceases to exist at the location.

# Storage

## Maintenance and Storage

Business owner or outdoor dining operator shall maintain the outdoor dining space clean. Outdoor furniture, equipment and other amenities must be removed from the outdoor dining area for extended periods of non-use (two weeks or more). The City may request removal during special events, etc.

# Site Furniture

Outdoor dining may require several pieces of site furniture, including tables, chairs, lighting, heaters, trash receptacles, and other furniture customary to this use. Furniture should be of a consistent or complimentary design.

# Umbrellas

Umbrellas must be free of advertisements and contained within the outdoor dining area. Advertisements are allowed only to advertise the name of the restaurant. No fluorescent or strikingly bright or vivid colors. Market-style umbrellas, designed specifically for patio or outdoor restaurant use, are preferred. Umbrellas are to maintain a minimum height clearance of 8 feet.

# Speakers

The use of sound amplification on the exterior of the restaurant or other use is prohibited.

Pacific Grove's

# DRAFT PARKLET PILOT PROGRAM DESIGN STANDARDS

Fall 2014



PREPARED BY THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT OF THE CITY OF PACIFIC GROVE, CALIFORNIA

# Parklet

A parklet is a small urban park, often created by replacing several under-utilized parking spots with a patio, planters, trees, benches, café tables with chairs, fountain(s), artwork, sculptures and/or bicycle parking. See Pictures.



# Purpose

The purpose of the parklet design standards is to create efficient uses of urban space, provide attractive additions to local streetscapes and invite people to sit and stay in public spaces, enhance walkability, and encourage business participation in a vibrant streetscape. Parklets are to be used as public space and are marked as such to promote use.

Because the process for establishing parklets is still preliminary, these Standards are subject to change at the discretion of the Pacific Grove Community and Economic Development Department. Parklet sponsors are responsible for conducting outreach, designing, funding, and constructing their parklets. They also assume liability for the parklet and ensure the parklet is well-maintained and kept in good repair.

## Design

Parklets normally occupy two parking spaces and extend 6 feet into the parking strip for parallel parking and 15 feet for diagonal parking. Parklets must have a visible barrier with the road, wheel-stops at each end, soft stop posts for directing traffic, public seating areas, curb drainage, be flush with the curb, provide vertical elements such as a canopy or umbrellas, and provide access to persons in wheelchairs.

## Costs

Parklet installations normally cost between \$5,000 and \$20,000, depending on size, design and materials. If paid spaces are used, businesses would pay a one-time seasonal fee to bag meters. Other engineering and building permits are required for each parklet location. Parklet hosts are responsible for all construction, maintenance, permitting, and parking-related costs

## Existing Programs

Cities from San Francisco to Philadelphia have adopted similar programs in which they coordinate with businesses to issue permits for these installations. In surveys conducted in San Francisco, residents specifically named parklets as a desirable factor in improving their neighborhoods.

## Impacts on Revenue

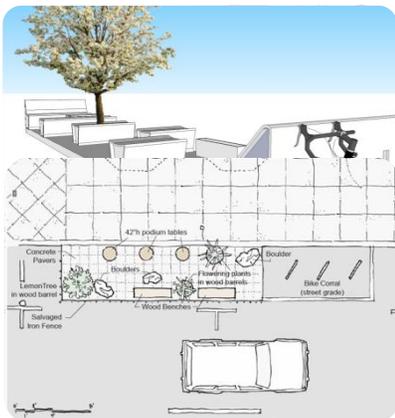
The cost of installing and maintaining a parklet has proven to be worthwhile for businesses. The Green Line Café in Philadelphia saw a 20% increase in revenue and the Mojo Café in San Francisco experienced a 30% increase. This is closely tied to increased foot and bicycle traffic. A study by the Great Streets Project showed that the best parklets increased foot traffic by 37% and increased the number of people stopping and sitting down by 30%.

# Permitting Process

All parklet sponsors are required to have an encroachment and building permit obtained from the Pacific Grove Building Department following review and approval by the Planning Commission and Traffic Engineer.

## Application Requirements:

- Application
- Permit fees – A one-time charge to cover the cost of the city to processes the application
- Initial Site plan
- Final construction documents that show parklet location and context, elevations from all sides, sections or cut-through drawings of the design, and construction details for assembly.
- Renderings and perspectives are optional.



The Building Department and the Community and Economic Development Department will review all paperwork. Modifications and clarifications to your documents may be required. *A Lease Agreement will then be arranged through the Building Department.*

- Following approval of your design, an invoice will be issued for the final permit. Additional permit fees will depend on the additional review required for your application, how many parking spaces your parklet will occupy, and whether your parklet is sited on a street with metered parking.
- A pre-installation on-site inspection must be scheduled at least 10 days before installation to authorize beginning construction.
- On-site construction and installation should be completed within 30 days.
- A post-installation on-site inspection must be scheduled within five days of the end of parklet construction, to verify that the parklet was built to the features, dimensions, and materials specified in the construction documents.

# Neighborhood Support

Parklet sponsors must demonstrate outreach to establish support for a parklet project through:

- **Letters of support.** The most effective method of demonstrating support for a parklet is through signed letters of support from property owners fronting the project, adjacent businesses, other businesses on the block, merchants associations, neighborhood organizations, or nearby residents and customers.
- **Copies of correspondence.** If signed letters of support from stakeholders cannot be obtained, please submit a copy of correspondence demonstrating that they have been notified of the intent to install a parklet.



## General



Parklets must observe the following general standards:

- Parklets must be open to public access, and the design should be open and welcoming to passersby. Public parklets shall include two “Public Parklet” signs which state that all seating must be publicly accessible at all times.
- No logos, advertising, and other branding is allowed on the Parklet.
- Because this pilot program, Parklets may sit on top of critical infrastructure and utilities. Most importantly, they need to be designed for easy removal

The parklet shall:

- Utilize 2 parking spaces (longer or shorter will be considered).
- Not extend beyond the host’s lateral property line (this may be amended by request, with written permission of neighboring businesses).
- Use no more than 10% of parking on any block face. (Note: Block faces with fewer than 10 stalls will be treated on a case by case basis.)
- Not extend more than 6 feet into parallel parking stalls.
- Provide 4 foot setbacks on either side to buffer the parklet from adjacent parking spaces.
- Utilize flooring that is 6 inches high in order to be flush with the curb. This may be modified to match curb height.
- Not be located in front of a fire hydrant, manhole cover or utility access, or within 10-feet on either side of a fire hydrant

## Location

Selection of a parklet location must consider the following criteria:

- **Business:** Must utilize spaces directly in front of the sponsor business. The area must not extend beyond the limits of the storefront without the written permission of neighboring businesses.
- **Driveways:** Parklets located next to driveways must be set back two feet from the outside edge of the driveway. If the driveway has been abandoned or no longer provides access to off-street parking space, the driveway may be incorporated into the parklet design.
- **Corners:** Parklets must be located at least one parking space away from an intersection or street corner. A curb extension or some other physical barrier that would protect the parklet in a corner location may allow a corner parklet to be considered on a case-by-case basis.
- **Slope:** Parklets are permitted on streets with a running slope of five percent or less. Parklets on streets with a running slope over five percent pose significant design challenges, leading to a more extensive design and review process, and less likelihood of approval.
- **Impending City projects:** A parklet proposal may be rejected if it conflicts with future programmed streetscape improvements. Parklets installed on streets scheduled for improvements may need to be removed prior to construction of the improvements.
- **Bus zones:** Parklets are not permitted in bus zones, but may be located adjacent to a bus zone.
- **Metered parking:** If your parklet is located in an area with metered parking, you will need to show the locations of the affected parking meters and include their associated parking space numbers and pay associated fees.

## Access

The parklet must:

- Provide entrances that are easily accessible from both sidewalk directions, unless specific requirements apply for establishments that serve alcoholic beverages.
- Be publicly accessible and include signage that states “This platform is public space and is not restricted to patrons of any particular business.” To that end, table service is not allowed at any parklet.
- Function as an extension of the sidewalk, with multiple points of entry.



## Functional Design

The parklet must:

- Contain vertical elements (planters, umbrellas, canopies, etc.) so as to be visible to passing vehicles and to provide appropriate shading for occupants. These overhead elements should not span over the sidewalk, and must have a minimum clearance of 84 inches above the surface of the parklet.
- Height of walls shall not exceed 48" above street.
- Contain green elements such as flowers or shrubs. Native plants, plants that provide habitat, and drought-tolerant plants are encouraged.
- Provide a protective, visibly penetrable barrier around the outside edge of the parklet so as to promote occupant safety and discourage illegal activity. The barrier must be set at least 18 inches back from the street side edge.
- Provide slip resistant surface materials.
- Ensure wheelchair users can access and enjoy the parklet.
- Ensure the parklet, and some seating within the parklet, is accessible to people with disabilities.

## Seating

Agenda No. 13A, Attachment 2  
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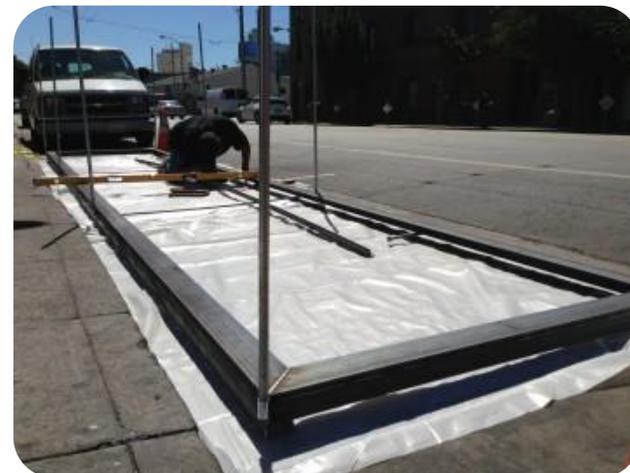
The parklet must include seating

- Seating must be easily accessible and include both individual and group seating design.
- The majority of the parklet should be utilized for seating space.
- Seating must show consideration for access by those with disabilities.
- The City encourages permanent seating that is integrated into the parklet structure, so that when moveable furniture is taken in at night, the parklet still feels welcoming.
- Non-permanent seating must be bolted down or taken in after business hours.
- Overall, seating should contribute to an inviting atmosphere that encourages parklet use rather than simply contributing to aesthetic appeal.



The parklet must:

- Maintain an equal grade with the adjoining sidewalk
- Not impede curb or parklet surface drainage. Screen covers are encourage for openings along curbs to prevent blockage from debris.
- Not exceed 2% grade on the cross slope extending into the street. See image.
- Take into consideration street crown and curb height when designing for cross slope and platform height.
- Take into consideration wind and occupancy load.
- Not attach to (i.e. bolt to) the street in any way.
- Include a gap between the curb and the parklet surface not more than ½". A connector spanning the gap is encouraged.
- Must be easily assembled and disassembled.
- Provide access underneath the flooring for cleaning.
- Not include concrete poured directly on the road surface. A plastic slip-sheet can be used to prevent concrete from bonding to the roadbed. Concrete floors should not include structural rebar and must weigh less than 200 pounds per square foot.
- Not use loose particles, such as sand or loose stone, for surface materials.



# Materials

High quality, durable and aesthetically appealing materials are encouraged.

- Locally sourced materials can reduce transportation costs.
- Recycled and reclaimed materials can reduce construction costs.
- Low emission materials that emit zero or low levels of volatile organic compounds (VOCs) can help improve air quality.
- Materials that are easy to maintain can reduce the difficulty of removing graffiti and the cost of replacing or repairing damaged plants, railings or other elements. Materials with higher up- front costs can reduce long-term maintenance expenses.



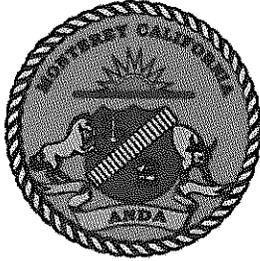
# Safety

The parklet must:

- Include reflective soft-hit posts along street side borders.
- Provide wheel stops placed 1 foot from the curb on any side adjacent to parking.
- Not be placed in a location where the speed limit exceeds 30 mph.
- Provide lighting, if intended for night use.







## REQUEST FOR PROPOSALS

### EATING AND DRINKING ESTABLISHMENT

### OUTDOOR SEATING

The City of Monterey is accepting proposals to create outdoor seating areas within the public right-of-way. Creating outdoor seating areas is intended to enhance the urban pedestrian environment. With proper design and management, outdoor seating can be a great way to encourage walking, add vitality to the street, and promote local economic development.

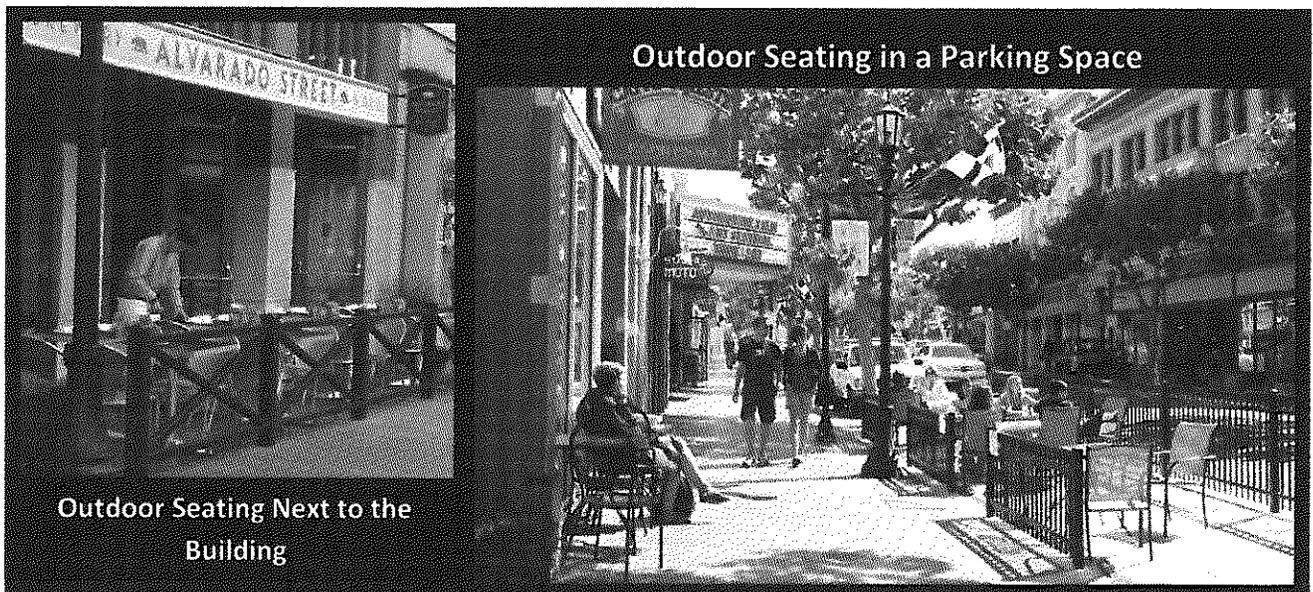
#### Eligible Applicants

1. Proprietors or Property Owners of Eating and Drinking Establishments

#### Appropriate Location and Design Parameters

The outdoor seating can be located either adjacent to the building or within an area currently used for on-street parking. A designated pedestrian zone must be maintained at all times around the outdoor seating area. The dimensions of the pedestrian zone will vary by commercial district; consult with the Planning Office about your particular site and minimum sidewalk dimension. All outdoor seating areas must be accessible and detectable as required by American with Disabilities Act guidelines. Tables and chairs must be movable unless approved by the City. We encourage applicants to demonstrate support of their proposal for outdoor seating from immediate neighbors.

The City will accept applications for installations that include outdoor seating areas as shown below. Alternatively, the City will accept applications for structures that are more temporary and can be removed. Designs should be creative, high quality and improve the street. Two examples are:



### **Preferred Materials List**

- Commercial Quality Paving
- Commercial Quality Fencing or Barriers
- Hit Posts (Where Appropriate)
- Commercial Quality Tables and Chairs, etc.

### **Proposal Submission and Process**

#### **1. Initial Application**

- Submit application by close of business on July 14, 2014 at 5:00 pm to the City of Monterey Planning Office, 570 Pacific Street, Monterey, CA 93940
- Submit a scaled site plan that illustrates the following:
  - Adjacent building outline within 10' of sidewalk
  - Property lines
  - Sidewalk width
  - Outdoor seating area placement, length and width
  - Outdoor seating plan (Final plan must comply with ADA standards)
  - Existing parking stalls, trees, hydrants, light poles, etc.
  - All surface obstructions within 5' of the improvement area
- Submit Elevation or Perspective Drawings to illustrate the proposal
- Preliminary civil engineering concept that considers storm water flow lines, travel lanes, etc. Staff will setup a meeting with the City's Engineering Staff for preliminary consideration.
- Submit details:
  - Pavers or Platform Material
  - Fencing
  - Hit Posts
  - Tables and Chairs
  - Other (Heaters, Planters, Umbrellas, etc.)

#### **2. City Staff Review**

A staff committee from various City offices will review the initial set of applications and will rank the projects based on the following goals:

- Enhancing the aesthetic quality of the streetscape and thoughtful preliminary design. High priority will be given to proposals creating a comfortable, enjoyable and aesthetically pleasing public space.
- Promoting outdoor seating as a visual amenity which in turn intensifies pedestrian activity and makes street life more attractive.
- Good location (site will be able to meet ADA requirements, street drainage flows can be accommodated, outdoor seating is well distributed along the street).
- High quality materials are proposed.
- Promoting safety of the pedestrian experience.
- Preserving and enhancing the character of the City of Monterey.

The City may reject any proposals that do not meet the above-criteria and reserves the right to invite less than three proposers, or none at all, to apply for an encroachment permit. (The City's recommended material list is preferred. If alternate materials are proposed, they must be high quality). Ultimate selection of the preferred proposal will be by the City Manager (or designee).

### **3. Design Review**

After selection, the applicant will be required to submit an application to the Architectural Review Committee (ARC) for design review. The ARC can recommend the City approve the application as submitted, identify additional conditions, or deny.

### **4. Encroachment Permit**

After selection, the applicant shall submit an application to the Permits and Inspection Services Division for an Encroachment Permit for outdoor seating. You may receive additional comments during review of the Encroachment Permit pursuant to Monterey City Code section 32-20. The Encroachment Permit will require additional terms governing the use, maintenance, and insurance requirements for the proposed outdoor seating. A sample of the Encroachment Permit is attached.

If selected, the City will post a public notice at your establishment documenting the City's approval of an Encroachment Permit for outdoor seating. The public notice must be posted for 15 calendar days. The purpose of the notice is to alert the public that your Encroachment Permit for outdoor seating has been approved by the City, and to provide an opportunity for the public to express its support or opposition to the proposal. If an objection is registered, the City will forward your Encroachment Permit for outdoor seating to the City Council for consideration under Monterey City Code section 32-19.2.

On appeal the City Council may hear and determine the Encroachment Permit for outdoor seating as if it were an original application. The City Council's determination on the matter shall be final.

We encourage applicants to adequately and robustly outreach to your neighbors of the subject property and to the Old Monterey Business Association. We encourage documentation of support of your project to be submitted with your proposal.

## **5. Construct Outdoor Seating**

With your Encroachment Permit in hand, you must inform the Permits and Inspection Services Division no less than 10 days before beginning any site work. Once you've completed installing your outdoor seating, you must notify the Permits and Inspection Services Division (646-3891).

## **6. Costs**

- \$ 0 Initial Application Fee
- \$ ARC Application Fee (current fee)
- \$ Encroachment Fee (current fee)

The applicant is responsible for all costs associated with designing and installing the outdoor seating area. In light of that requirement, and as an additional incentive to fulfill the City's objectives of encourage walking, adding vitality to the street, and promoting local economic development, the lease payment of \$936 per year per parking space is waived.

## **7. Responsibilities of Permit Holder**

- Insurance – You will be required to provide evidence of at least \$1 million in insurance naming the City of Monterey as an additional insured; please see the specific insurance requirements set forth in the attached sample Encroachment Permit for Outdoor Seating.
- Indemnity – You will be required to indemnify and hold harmless the City as set forth in the Encroachment Permit for Outdoor Seating.
- Maintenance – You will be required to maintain all improvements (sidewalk, furniture, plants, etc.) in good condition. You must maintain the surface of the outdoor seating daily and clean the area beneath the seating area once a week.
- Tables and Chairs – Any moveable items, such as tables and chairs must be taken inside each night or alternative plan submitted to the City for approval.

## **8. General**

The City reserves the right to amend this Request for Proposals and all terms contained within it, as well as the attached Encroachment Permit form, up until the point that a final Encroachment Permit for outdoor seating is issued. Applicants may withdraw their applications if they do not agree with any of the amended terms. The City reserves the right to reject any or all proposals or to waive any irregularities or informalities in any proposal.

Encroachment Permit for Outdoor Seating No. \_\_\_\_\_

In consideration for the granting of an Encroachment Permit from the City of Monterey ("City"), I, \_\_\_\_\_ ("Permit Holder"), hereby agree to the following conditions:

1. This Encroachment Permit for outdoor seating shall expire and become void, unless renewed, one year after the date of issuance. Permit Holder must request renewal no later than 30 days prior to the expiration date.
2. Prior to any construction activity, Permit Holder shall contact the City Public Works Inspector for a field inspection of the work to be done in the public right-of-way. A twenty-four hour notice shall be given to the City Public Works Inspector prior to any work activity (831-646-3890)
3. Permit Holder is responsible for making sure that all activities stay within the approved area.
4. Permit Holder agrees that all outdoor seating will comply with the Americans with Disabilities Act. Any changes to the layout and/or seating must first be approved by the City's Building Official.
5. Tables and Chairs: Movable items, such as tables and chairs, must be removed from the sidewalk area while the business is closed, and at the expiration of this license. Tables and chairs may not be stacked or stored outside at any time.
6. Maintenance: Permit holder at its own cost and expense shall maintain the tables and chairs and sidewalk in the permitted area in a safe, clean, neat and attractive manner at all times. Food trays or carts, receptacles for dirty dishes, trays or carts for linen and utensils, and cooking appliances shall not be placed or stored on any portion of the sidewalk. It is the responsibility of the Permit Holder to keep the sidewalk pedestrian zone, as designated on the site plan, clear and free of obstructions at all times. The surface of the sidewalk for the permitted area shall be swept daily and rinsed out weekly.
7. Insurance: Permit holder shall furnish a Certificate of Insurance showing there is in force the following valid policy showing the Permit Holder as the named insured and showing: (1) Commercial General Liability – a minimum \$1,000,000 combined single limit per occurrence for bodily injury and property damage including products and completed operations; and (2) Workers' Compensation and Employers' Liability: limit of not less than \$1,000,000 per accident as required by the Labor Code of the State of California.
8. Endorsements: Commercial General Liability Certificate must be accompanied by the following endorsements: (1) the City of Monterey, its officers, employees, agents and contractors are named as additional insured; (2) Notice of Cancellation or changes of coverage shall be given to the City of Monterey. The insurance is primary insurance with respect to the City, its officials, employees, agents, and contractors. Any other insurance the City may have shall be considered excess insurance only. Coverage shall also state that the Permit Holder's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
9. Indemnity & Hold Harmless: Permit holder agrees to and shall hold harmless, indemnify, and defend the City and City's officers, employees, contractors, agents and representative from and against any and all causes of action, claims, actions, demands, damages, losses, expenses, or liability, in law or equity, of any kind or nature whatsoever, including without limitation for injury or death to anyone or for any property damage, resulting from or related to any operation or activity undertaken pursuant to this permit. The foregoing hold harmless and indemnity agreement shall apply in all cases regardless of whether there is any negligence or wrongdoing on the part of City, excepting only the sole and willful active misconduct of the City, its officer, employees or agents. Permit holder also agrees that permit holder, its heirs, spouses, guardians, legal representative, and assigns will not make a claim against, or sue, the City of Monterey, its officers, agents or employees for injury, death, or property damage arising from the negligence or other acts by the City of Monterey, its officers, agents or employees, or as a result of acts of third-parties, as a result of activities undertaken pursuant to this permit.

10. Exclusivity: The encroachment area under this permit shall be for the exclusive use of the customers, guests, and invitees of Permit Holder during business hours.
11. Transferability: This permit may not be transferred or assigned without the consent of the City.
12. Suspension: City has the right to suspend or prohibit the operating of outdoor seating allowed under this permit at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. Such problems or conflicts may arise from, but are not limited to, scheduled festivals, parades, marches and similar special events, repairs to the street, sidewalk or other facility, or from demonstrations or emergencies occurring in the area.
13. Revocable: Permit Holder understands that this permit does not grant any party any estate or other property right in the sidewalk/permitted area. The City has the right to review, modify, or revoke this Encroachment Permit at any time and for any reason. The City shall give written notice of such revocation and a reasonable time to remove the encroachment. Permit holder agrees to remove the encroachment after said notice and to restore the public property to it prior condition. If Permit Holder fails to do so, the City may do said work, either with its own employees or by private contract, and the Permit holder shall be liable for said costs. Permit Holder shall remove all fixtures, chairs, tables, fencing, bollards, planters and any other item related to or connected to the outdoor seating on the last effective date of this permit. Permit Holder is responsible for restoring the sidewalk to a parking place on the last date of this permit.

Permit Holder: \_\_\_\_\_  
By: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

Property Owner: \_\_\_\_\_  
By: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

remove such building or structure.

### **ARTICLE 3. ENCROACHMENTS.**

#### **Sec. 32-14. Definitions.**

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

**Director of Engineering & Maintenance.** The duly appointed Director of Engineering and Maintenance, any person appointed by the City Manager to act in said position, and any person appointed by the Director of Engineering and Maintenance to act in his or her behalf.

**Encroachment.** Any structure or object of any kind or character placed, without authority of law, either on, in, over or under any street, alley, sidewalk, right-of-way, public place, property owned by the City, or property dedicated to the public use or benefit.

#### **Sec. 32-15. Purpose of Article.**

It is recognized that there are presently existing in the City objects which encroach upon City-owned property, streets, sidewalks, right-of-way and other public places which constitute a danger to the health and safety of persons and property. It is also recognized that many encroachments on public property do not constitute any danger to persons or property and are beneficial to both the property owner and the City and therefore should be allowed, subject to conditions appropriate to each situation. The purpose of this Article is to provide a procedure for the authorization of encroachments by the issuance of permits where such encroachments are beneficial and do not constitute a danger to the public and to abate and cause to be removed all other encroachments that may now or in the future exist to be discovered to exist.

#### **Sec. 32-16. Encroachment permits -- authority to issue.**

The City Council may grant an encroachment permit by notice on any City-owned property, street, public place or right-of-way over any other property over which the City Council has jurisdiction.

#### **Sec. 32-17. Same -- delegation of authority.**

The authority of the City Council to grant encroachment permits under this Article is hereby delegated to the Director of Engineering & Maintenance who shall exercise the authority of the City Council as set forth in Section 32-20 herein.

#### **Sec. 32-18. Same -- referral for recommendation.**

The Director of Engineering & Maintenance may refer the application for an encroachment permit to any City department, board, commission or committee, or any recognized organization for a recommendation.

#### **Sec. 32-19. Same -- form of application and permit.**

All applications for a permit shall be submitted on a form supplied by the City and signed by appurtenant property owner. The original of all permits shall be filed with the City Clerk and shall contain the signature of the appurtenant property owner indicating acceptance of the terms and conditions of the permit.

#### **Sec. 32-19.1. Same -- referral to Council.**

The Director of Engineering & Maintenance may, with a recommendation, refer any application to the City Council for determination.

#### **Sec. 32-19.2. Same -- appeals.**

(b) The City Council, upon receipt of a recommendation from the Planning Commission, shall hear and decide appeals for variances in the strict application of subsection (a) of this Section.

(c) The owner of any property affected by established official Plan Lines may appeal the strict interpretation of subsection (a) of this section.

(d) Such appeal shall be made, in writing, to the Planning Commission.

(e) Upon receipt of an appeal, the Planning Commission shall set a date for at least one (1) public hearing and publish notice thereof in a newspaper of general circulation to the City at least ten (10) days in advance of such public hearing. At the conclusion of such public hearing, the Planning Commission shall make its recommendations by resolution, in writing, to the City Council.

(f) In order to make a recommendation contrary to the provisions stated in subsection (a) of this Section, the Planning Commission shall find the following:

1. That the property of which the Official Plan Line is a part is of such nature that the owner of the land will be substantially damaged by the refusal to grant the variance.
2. That the property will not earn a fair return on the owners' investment unless the construction involved is authorized.
3. That the granting of the application is necessary for the preservation of substantial property rights of the individual.

(g) Upon receipt of such report from the Planning Commission or upon expiration of 60 days from the time the applicant filed his appeal with the Planning Commission, the City Council shall set a date for a public hearing thereon with notices as required by law.

At the conclusion of the public hearing, the City Council may grant the applicant a variance from the provisions in subsection (a) of this Section.

(h) In order to grant a variance contrary to subsection (a) of this Section, the City Council shall find the following:

1. That the property of which the Official Plan Line is a part is of such nature that the owner of the land will be substantially damaged by the refusal to grant the variance.
2. That the property will not earn a fair return on the owners' investment unless the construction is authorized.
3. That the granting of the application is necessary for the preservation of substantial property rights of the individual.

### **Sec. 32-13. Enforcement of Article.**

It shall be the duty of the Building Inspector to enforce this Article. He shall not issue any building permit in conflict with the terms of this Article, and any such permit or license issued in conflict with the provisions of this Article shall be null and void.

Any building or structure erected or moved contrary to the provision of this Article is hereby declared to be unlawful and a public nuisance; and the City Attorney shall, upon order of the City Council, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and

be mailed to all property owners of real property within the proposed right-of-way area, as such owner's name and address appear on the last equalized assessment roll of the City, or, if the address is not known, to General Delivery, Monterey, California; provided that the failure to give such notice by mailing or of the person addressed to receive the same, shall not affect the jurisdiction of the Planning Commission to proceed with the hearing notice. Not less than five (5) days before such hearing, notice of such hearing shall be published at least once in the official newspaper of the City. The Planning Commission shall submit its findings, in writing, to the City Council.

(b) Action by City Council. Upon receipt of the report from the Planning Commission, the City Council shall set a date for at least one (1) public hearing and give public notice of such hearing, as prescribed by law, and at least ten (10) days prior to such hearing notice thereof shall be mailed to all property owners of all real property within the proposed right-of-way area, as such owner's name and address appear on the last equalized assessment roll of the City, or, if such address is not known, to General Delivery, Monterey, California; provided, that the failure to give such notice by mailing, or of the person addressed to receive the same, shall not affect the jurisdiction of the City Council to proceed with the hearing. Not less than ten (10) days before such hearing, notice of such hearing shall be published at least once in the official newspaper of the City. At such time as the hearing is concluded by the City Council they may adopt the official Plan Line Map as Section XX-1, Section XX-2, etc., of this Article, or resubmit the map to the Planning Commission for further study.

Official Plan Line Maps and all the notations thereon shall be adopted by ordinance as part of this Article.

**Sec. 32-9. Same -- designation on maps.**

Official Plan Lines (future width lines) shall be designated on maps drawn up by the City Engineer at the request of the Planning Commission acting through the City Council.

The official Plan Line Maps shall show all property divisions and buildings adjacent to the project at a scale of one inch to 50 feet, and they shall show the existing and proposed right-of-way widths as well as a cross section of the proposed street. The maps shall be titled "Official Plan Lines of (name of street or highway)." There shall be statements of adoption or affirmation by the Planning Commission and the City Council on each map.

**Sec. 32-10. Same -- index map; recordation.**

The City Engineer shall make and keep up to date an index map which shall show the streets or portions of streets upon which official Plan Lines have been established.

The City Clerk shall record all duly attested official Plan Line Maps adopted under the provisions of this Article in the office of the County Recorder.

**Sec. 32-11. Same -- posting of notices.**

The City Engineer shall post permanent notices at intervals of not more than 1,000 feet on streets for which precise Plan Lines have been adopted. Such notices shall be painted on wood or metal, or printed on cloth paper, and shall contain the following words:

"The width of this street, (or other appropriate designation) is established as \_\_\_\_\_ feet according to the Master Street and Highway Plan of the City of Monterey. All buildings and other structures hereafter erected must be outside the lines of such established width as shown on the Official Plan Line Map No. \_\_\_\_\_, recorded in the Office of the County Recorder, Salinas, California, a copy of which is on file in the office of the City Clerk and in the office of the Building Inspector."

**Sec. 32-12. Adherence of structures, etc., to Plans.**

(a) No building or structure shall be erected or placed within the official Plan Lines of streets or highways established by this Article, except as provided for under this Section.

words and phrases used in this Chapter are defined as follows:

Agenda No. 13A, Attachment 3

1. Parade shall mean any march, procession, motorcade, or promenade consisting of persons, animals, or vehicles, or a combination thereof, having a common purpose, design, destination, or goal, upon any public street or place, which parade, march, procession, motorcade, or promenade does not comply with normal and usual traffic regulation or control, or which by its nature will impede or delay normal and usual vehicular or pedestrian traffic.

2. Assembly shall mean any meeting, gathering, or group of 25 or more persons, animals, or vehicles, or a combination thereof, having a common purpose, design, or goal, upon any public street, sidewalk, alley, park, or other public place, which assembly substantially inhibits the usual flow of pedestrian or vehicular travel or which occupies any public area, other than a parade, as defined in subsection 1 above.

**Sec. 32-6. Obstruction of sidewalks prohibited; exception.**

No person shall place any box, bale, package, lumber or other thing on any sidewalk by reason of which any such sidewalk shall be obstructed; provided that merchants, tradesmen and persons while engaged in receiving or forwarding goods or any other commodity may use a portion of the sidewalk in front of where the goods or other commodity is to be received or shipped, for a period not exceeding four (4) hours in any one day. At all times and in all instances of such necessary obstructions at least four (4) feet in the clear of such sidewalk so obstructed shall be left free and open to the unobstructed use of pedestrians.

**Sec. 32-6.1 Obstruction of pedestrian or vehicular traffic on public property and on private property abutting public property.**

It shall be unlawful for any person or group of persons to intentionally obstruct or impede the free movement of any pedestrian or vehicle, or any group of pedestrians or vehicles within, on, in, or upon any public street, sidewalk, way, path, park, wharf, parking lot, or other public property within the City of Monterey, including the ingress or egress of such pedestrian or vehicular traffic from private property, the entrances to or from which abut any such public street, sidewalk, way, path, park, wharf, parking lot or other public property.

**ARTICLE 2.  
OFFICIAL PLAN LINES.**

**Sec. 32-7. Purpose of Article.**

The purpose of this Article is to protect and implement the Master Street and Highway Plan adopted by the City. Such Street and Highway Plan is adopted for the following purposes:

- (a) To serve as a general guide for the development of streets and highways.
- (b) To promote the public welfare, safety and convenience.
- (c) To provide a comprehensive guide for capital outlay on streets and highway improvements in the city.
- (d) To provide an authentic source of information for residents and investors in the City.
- (e) To obviate the menace to the public safety and the damage to property values resulting from inadequate provisions of traffic thoroughfares.

**Sec. 32-8. Official Plan Lines -- adoption.**

- (a) Action by Planning Commission. In order to adopt an official Plan Line Map, the Planning Commission shall be in receipt of such map from the City Engineer and shall hold at least two (2) public hearings thereon. At least five (5) days prior to such hearings, notice thereof shall

prior to the parade or assembly.

7. The date the assembly or parade is to be conducted and the hours the assembly or parade will commence and terminate.

8. If a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal.

9. Whether any costumes, masks, or unusual attire will be worn.

10. Whether any music will be provided, either live or recorded.

11. The number, types, and locations of all loudspeakers and amplifying devices to be used.

12. Such other information as the Chief of Police may deem necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and the protection of the public health, safety, and welfare.

(d) The Chief of Police shall deny the application for the permit if any information supplied by the applicant is false or intentionally misleading, or if the Chief of Police determines that the parade or assembly will endanger the public health, welfare, or safety by applying the criteria set forth in subsection (b) of this Section, and if he determines that reasonable adjustments to the community traffic control, street and property maintenance, and police, fire, and ambulance protection would not alleviate such danger. Nothing in this Chapter shall allow the Chief of Police to deny a permit based upon political or religious grounds or reasons.

(e) The Chief of Police shall uniformly consider each application upon its facts and shall not discriminate in granting or denying applications.

(f) The Chief of Police, upon the issuance of the permit, shall impose such reasonable conditions as he deems necessary to protect the health, welfare, and safety of the community and the participants in such parade or assembly, including but not limited to, furnishing of traffic control devices such as signs and barricades, and providing for clean-up and trash removal related to the activity itself.

(g) The Chief of Police shall notify the applicant at least five (5) days in advance of the scheduled assembly or parade with alternate times, places, manner, or duration, and of intended conditions for the conduct of the parade if he can reasonably do so and if the application, as submitted, is to be denied for any of the above reasons.

(h) If the provisions of subsections (f) or (g) of this Section cannot be accomplished reasonably by the Chief of Police, he shall immediately notify the applicant in writing of the denial of the application and the specific reasons therefor.

(i) Appeals. The granting or denial of a permit by the Chief of Police pursuant to the provisions of this Chapter may be appealed to the City Council by the applicant, permittee, or any person affected thereby. Such appeal shall be in writing and shall be filed with the City Clerk on or before the next successive normal work day following the decision of the Chief of Police. The City Council shall act upon the appeal within three (3) normal work days of the filing of the appeal. If a regular City Council meeting is not scheduled within said three normal work days after the filing of the appeal, the Mayor shall call a special City Council meeting to consider such appeal.

(j) For the purposes of this Chapter, unless otherwise apparent from the context, certain



# Sidewalk Dining

## How Does it Work?

A tables and chairs or sidewalk café permit is meant to promote outdoor dining opportunities on the public sidewalk, including the placement of chairs, tables, awnings, and umbrellas.

These provisions are intended to encourage local restaurants to take advantage of their sidewalk space for outdoor dining.

## Who Can Apply?

Restaurants, Cafes, Coffee Shops, and Bakeries or other legally permitted food and beverage establishments.

## How to Apply?

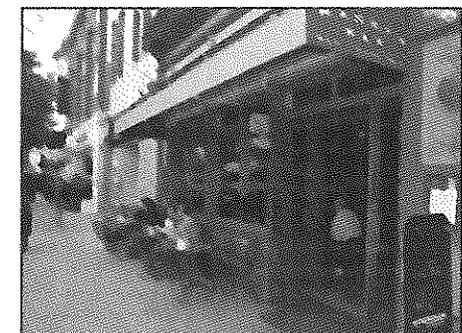
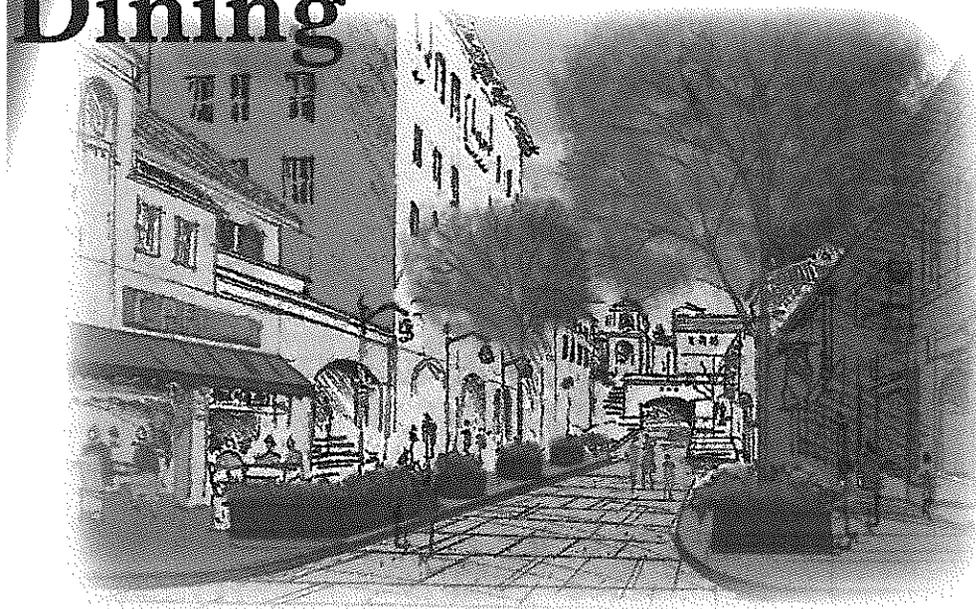
Application for sidewalk dining can be made at the Community Development Department at 919 Palm Street.

## New for 2010: Incentives for the implementation of outdoor seating and dining:

- A reduction of application fees.
- Encroachment fees waived in most cases.
- Parking fees can be waived for use of public sidewalks.
- Additional flexibility in determining the minimum allowable sidewalk width following installation of sidewalk dining.
- The addition of a Table and Chairs Permit with reduced annual fees for small, temporary installations.

## Application Requirements:

- Application fee for administrative approval.
- A detailed site plan, noting dimensions of the area proposed for outdoor dining; the proposed number and location of tables, chairs, and other furnishings to be included in the dining area; and all sidewalk obstructions in the vicinity.
- A detailed description of the type, color, and material of all proposed outdoor furniture, such as tables, chairs, barriers, planters, umbrellas, signs, and lighting.
- Signed consent of business owner(s) and property owner(s).
- A statement of proposed hours of operation; and any other information deemed necessary by the Community Development or Public Works Directors.
- Proof of liability insurance.
- A liability release agreement.



## What is it?

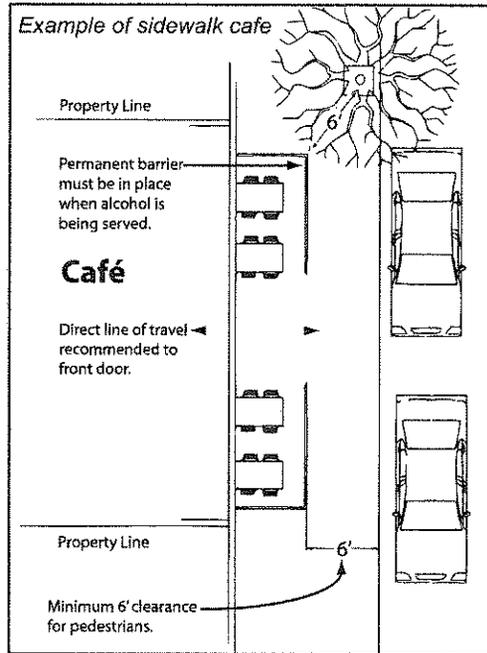
The City of San Luis Obispo supports outdoor dining, the temporary placement of chairs and tables on the sidewalk in conjunction with restaurant or other food/beverage services.

## Sidewalk Café:

The installation of sidewalk dining including seating, tables, umbrellas, and complete food services.

### Guidelines:

- Allows for alcohol consumption.
- Outdoor dining is allowed within the frontage of an existing or proposed restaurant, coffee shop, bakery, or other eatery.
- Movable barriers are required to delineate outdoor dining areas.
- Hours of operation for Sidewalk Dining shall not begin prior to 7:00 a.m. nor extend later than 10:00 p.m.
- A path of travel for pedestrians (six feet of clear space) shall be maintained free and clear of any existing obstacles including any street furniture, trees, and utilities.
- Where umbrellas or awnings are used, a vertical clearance of at least seven feet must be maintained. The placement, color, style, and types of outdoor furniture and barriers shall be consistent with and complement the design and appearance of the affected building to the satisfaction of the Community Development Department.
- Requires an annual sidewalk lease fee: \$1.00/s.f./month/annually.



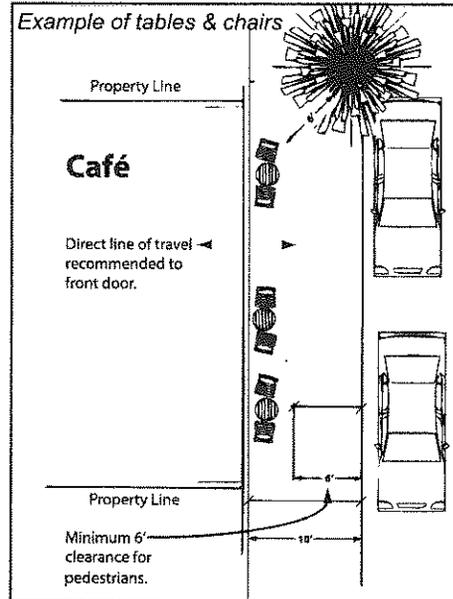
- No annual approval required.
- No limit to the size of the installation.
- On-site bicycle parking may be required in lieu of vehicle parking spaces.
- Items used within the outdoor dining areas may not be left outdoors overnight or when not in use.
- Outdoor dining areas shall be used for sit-down food and beverage services only. No stand-up or take-out service is permitted.

## Tables and Chairs:

The temporary placement of chairs and tables on the sidewalk in conjunction with a restaurant or other food/beverage service.

### Guidelines:

- Applications are valid for one year.
- No Alcoholic beverages may be served.
- Consists of a small installation of seating for no more than six people.
- There is an annual permit fee.
- Tables and Chairs permits are not subject to sidewalk use fees nor encroachment fees.
- No barrier may be installed on sidewalk.



- Hours of operation for Tables and Chairs shall not begin prior to 7:00 a.m. nor extend later than 10:00 p.m.
- Tables and Chairs are allowed within the frontage of an existing or proposed restaurant, coffee shop, bakery, or other eatery.
- A path of travel for pedestrians (six feet of clear space) shall be maintained free and clear of any existing obstacles including any street furniture and utilities.
- Items used within the outdoor dining areas may not be left outdoors over night or when not in use.



 **city of  
san luis obispo**

**For More Information:**  
Community Development Department  
919 Palm Street  
San Luis Obispo, CA, 93401-3249  
(805) 781-7170  
[www.slocity.org](http://www.slocity.org)

Private temporary uses such as sidewalk cafes (where allowed by Code<sup>15</sup>) may occupy the Frontage Zone, so long as the Through Pedestrian Zone is maintained.

#### ENCROACHMENTS<sup>16</sup>

Fences and walls, when permitted, must be at least 1 ft (300 mm) behind the back of the sidewalk (or the future sidewalk, if none exists).<sup>17</sup> Encroachments into the right-of-way should not be permitted where the existing sidewalk corridor is less than the recommended width shown in Table VIII-2 on page 218.

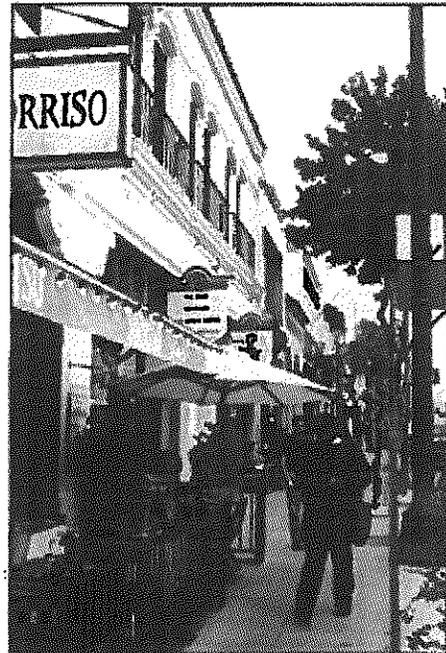
Elements such as standpipe systems for fire safety may project into the Frontage Zone from a building face a maximum of 1 ft (300 mm) per the City Engineer, but not more than 4 in (100 mm) if they project in the area between 2 ft 3 in and 6 ft 8 in (685 mm and 2030 mm) above the sidewalk, per the ADA.

#### ADJACENT PARKING LOTS

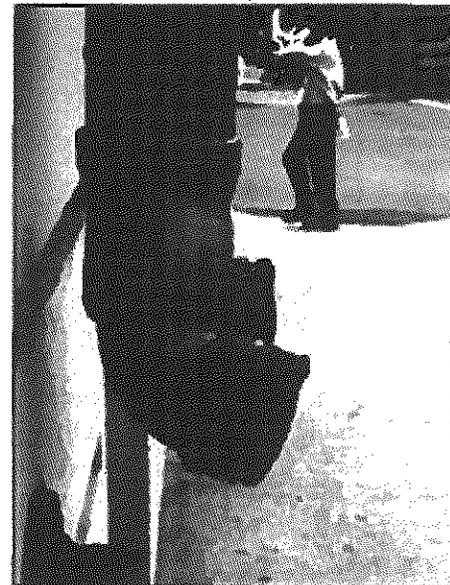
In existing parking lots, landscape and lighting are guided by the Santa Barbara Municipal Code 28.90.050. Where there is no landscaping between parked vehicles and the right-of-way, wheel stops or other means such as walls or fences should be used to prevent parked vehicles from overhanging into the Frontage Zone.

#### Driveways

The number of driveways accessing public rights of way should be limited to one per parcel to minimize vehicle access conflicts with pedestrians, bikes, and other vehicles. Access to some commercial properties may require more than one access point as determined by the Public Works Department. Driveway widths should also be minimized to reduce entrance speeds, maximize landscaping opportunities, and reduce pedestrian exposure at vehicle access points.



Temporary uses such as sidewalk cafes may occupy the Frontage Zone, providing the Through Pedestrian Zone remains clear.



Elements such as standpipe systems may project into the Frontage Zone. Care must be taken to assure compliance with the ADA.

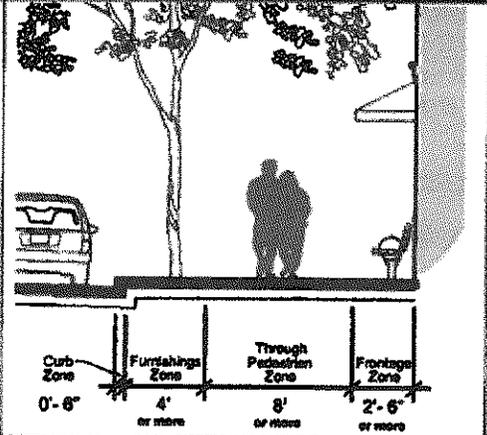
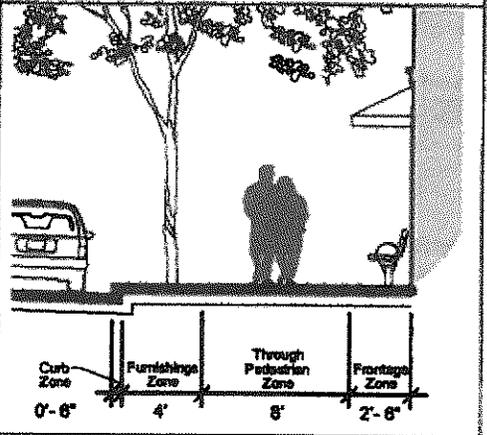
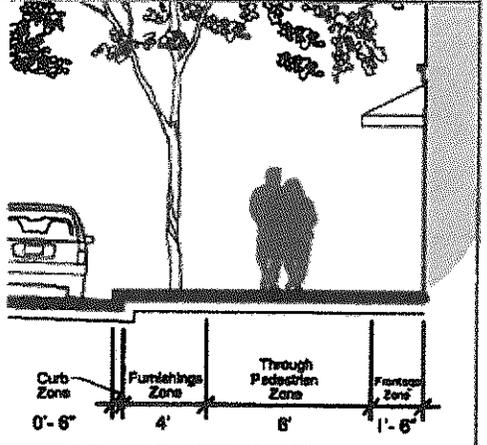
<sup>15</sup> Code 9.95, Outdoor Dining

<sup>16</sup> Recommend adding an encroachment policy to Code

<sup>17</sup> Recommend adding guidelines to Code relating fences and walls to sidewalks

Santa Barbara Pedestrian Master Plan

Table VIII-2. Sidewalk Zone Table - High Pedestrian Use Areas

<p>Recommended minimums in High Pedestrian Use Areas along State Street, especially for arterial streets or where ROW width is 80 feet or greater.</p> <p>Where outdoor café seating is desired, the Frontage Zone may be wider, so long as the Through Pedestrian Zone is maintained.</p>	
<p>Recommended minimums in High Pedestrian Use Areas along retail-commercial streets, especially for arterial streets or where ROW width is 80 feet or greater.</p> <p>Where outdoor café seating is desired, the Frontage Zone may be wider, so long as the Through Pedestrian Zone is maintained.</p>	
<p>Recommended minimums for walkways along other commercial streets, other local streets in highly traveled pedestrian areas, and for streets where ROW width is 60 feet or greater.</p>	

## Chapter 9.95

## USE OF CITY SIDEWALKS AND RIGHTS-OF-WAY FOR DINING PURPOSES

## Sections:

9.95.010	Purpose.	9.95.060	Alcoholic Beverage Restrictions.
9.95.020	Outdoor Dining - Defined.	9.95.070	Special Closures.
9.95.030	Outdoor Dining License Required.	9.95.080	Issuance of License.
9.95.040	Where Outdoor Dining in Public Rights-of-Way Permitted.	9.95.090	Term and Renewal.
9.95.050	Sidewalk Required to Accommodate Pedestrian Traffic.		

**9.95.010 Purpose.**

The purpose of the regulations and standards in this chapter are to allow increased business and pedestrian traffic by providing safe and visually appealing opportunities for outdoor dining. (Ord. 4820, 1993.)

**9.95.020 Outdoor Dining - Defined.**

"Outdoor dining" means the use of City sidewalks and public rights-of-way for the consumption of food or beverages in conjunction with the operation of a food service establishment properly licensed for such service under state and county health regulations and which provides on-premises customer seating. (Ord. 4820, 1993.)

**9.95.030 Outdoor Dining License Required.**

A. Outdoor dining is not allowed without an outdoor dining license agreement with the City as set forth in this Chapter 9.95.

B. The owner or operator of a business or service which includes outdoor dining shall maintain such operation in compliance with all provisions of the outdoor dining license and the administrative regulations approved pursuant to this Chapter 9.95. (Ord. 5130, 1999; Ord. 4820, 1993.)

**9.95.040 Where Outdoor Dining in Public Rights-of-Way Permitted.**

Outdoor dining is not permitted where, in the opinion of the City Engineer, the speed, volume or nearness of vehicular traffic is not compatible with outdoor dining. All outdoor dining areas must be adjacent to and incidental to the operation of a food service establishment providing on-premises customer seating properly licensed for such service pursuant to state and county health regulations. Use of the sidewalk or public right-of-way must be confined to the actual sidewalk and public right-of-way frontage of the restaurant or food service building. (Ord. 4820, 1993.)

**9.95.050 Sidewalk Required to Accommodate Pedestrian Traffic.**

Outdoor dining is permitted only where, in the opinion of the City Engineer, the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed outdoor dining. Along State Street, between Cabrillo Boulevard and Victoria Street, the outdoor dining area shall leave not less than eight (8) consecutive feet of sidewalk width which is clear and unimpeded at all points for pedestrian traffic. Outdoor dining operations must maintain adequate clearance for all normal uses of the sidewalk and any special or occasional uses that may arise from time to time. (Ord. 5130, 1999; Ord. 5047, 1998; Ord. 5013, 1997; Ord. 4820, 1993.)

**9.95.060 Alcoholic Beverage Restrictions.**

The service of alcoholic beverages shall be restricted solely to on-premise consumption by customers within the outdoor dining area. Each of the following standards apply to outdoor dining areas which provide alcoholic beverage service:

A. The outdoor dining area must be immediately adjacent to and abutting an indoor restaurant which provides food and beverage service;

B. The outdoor dining area must be clearly and physically separated from pedestrian traffic;

C. The operator shall post a written notice to customers that the drinking or carrying of an open container of alcohol is prohibited outside the outdoor dining area;

D. The outdoor dining operations must be duly licensed by the state Department of Alcoholic Beverage Control. (Ord. 4820, 1993.)

**9.95.070 Special Closures.**

Outdoor dining is an interruptible or terminable license granted by the City pursuant to a contract. The City shall have the right and power, acting through the City Engineer, to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area or right-of-way. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area.

To the extent possible, the licensee shall be given prior written notice of any time period during which the operation of the outdoor dining area will be prohibited by the City. (Ord. 4820, 1993.)

**9.95.080 Issuance of License.**

The City Engineer may issue an outdoor dining license pursuant to administrative regulations issued by the Public Works Director and approved by resolution of the City Council.

At a minimum such regulations shall determine and require the following:

1. The approval and execution of a standard license agreement in a form acceptable to the City Attorney;
2. Proof of insurance naming the City as an additional insured acceptable to the City Administrator;
3. Special site conditions as needed or desirable;
4. Whether the design for seating and signage meets the minimum standards of the established administrative regulations;
5. Such other conditions as are necessary for public safety or to protect public improvements, such as the posting of appropriate security to guarantee the restoration of the right-of-way upon termination of the license;
6. Conditions necessary to restore the appearance of the sidewalk or right-of-way on termination of use;
7. Compliance with the applicable City building, zoning and design review requirements, particularly those requirements with respect to automobile parking.
8. Some form of fair market rent as compensation to the public for use of the sidewalk or right-of-way in an amount established by a resolution of the City Council;
9. The payment of an appropriate license application fee in an amount established by resolution of the City Council;
10. Adequate setback and clearances for all expected pedestrian uses of the sidewalks, as well as for unusual or occasional public uses that can be anticipated. (Ord. 5130, 1999; Ord. 4820, 1993.)

**9.95.090 Term and Renewal.**

The maximum term of an outdoor dining license is one year. Thereafter, the City Engineer may extend the license for additional periods, not to exceed one year each, following review and approval of the operation. If the City Engineer considers additional or revised conditions desirable, such new conditions may be imposed upon the extension, including the imposition of a license renewal fee. (Ord. 4820, 1993.)

**24.10.2330 DEMOLITION CONTROL.**

The purpose of demolition control is to provide for orderly change and development of the area in accordance with the General Plan and the Downtown Recovery Plan. It is intended to provide a means whereby existing buildings and structures are evaluated for their reuse potential before demolition is allowed.

1. No demolition permit as authorized by the Uniform Building Code shall be issued unless the replacement use and any use, design or other permits, as applicable, have been approved by the city, except as provided below.
  - a. Where the replacement use of the site requires no building permit, a demolition permit may be issued as approved by the decision-making body in connection with its action in approving the replacement use of the site.
  - b. Where the replacement use requires a building permit, but there is a practical hardship in delaying the demolition permit until a valid building permit is issued, the approving body may authorize demolition before issuance of a building permit if it finds that there is a practical hardship and prior demolition is consistent with the General Plan and the Downtown Recovery Plan. The approving body may require such security as it deems necessary to assure the construction of the replacement project, and may establish time requirements for performance.
3. The decision-making body shall consider any demolition application at the time it considers any necessary permits or actions for the replacement project after demolition. It shall approve demolition after evaluating it for consistency with the General Plan and Downtown Recovery Plan, and taking into account reasonable alternatives for reuse and cost benefits to the community.

(Ord. 91-29 § 2 (part), 1991).

**24.10.2340 EXTENSION AREAS.**

The purpose of extension areas is to enhance the pedestrian ambiance of Pacific Avenue, by introducing uses attractive to pedestrians into the pedestrian environment, configured and arranged in ways which activate and enliven the public street.

1. Revocable License Required. No person shall use an extension area unless a valid revocable license to operate a business has been obtained pursuant to this part.
2. Revocable License Application. Application for a revocable license shall be made jointly by the property owner and the business operator of the business located on the property adjacent to the extension area, and shall be filed with the planning department on the appropriate application form, accompanied with the following information:
  - a. Name and address of the property owner and business operator. Both parties or their authorized representatives shall sign the application.
  - b. The expiration date of the business license of the business intending to operate the extension area.
  - c. A drawing showing the extension area in its relationship to the building, sidewalk and street, for the extension area and thirty feet along the sidewalk in either direction. The drawing shall show dimensions of the extension area, locating doorways and access points, show width of sidewalk (distance from curb to building face and property line), existing and projected pedestrian traffic movements, location of utilities that might affect or be affected by the application proposal, parking meters, bus stops, benches, trees, landscaping, trash receptacles and other street furniture, or any other potential sidewalk obstruction.

The drawing of the extension area shall show its intended use, any furniture or display stands, fixtures, signs, canopies and other overhead appurtenances, landscaping and planters, trash receptacles, and any other matter to be placed in the area.

- d. Other information which may be required to act on the revocable license.
3. Location and Design Requirements. Chapter 4 of the Downtown Recovery Plan describes the use, location and design requirements for extension areas.
  4. Form and Conditions of Revocable License. The revocable license may be conditioned to achieve the purpose of this part. In addition to any other appropriate conditions, standard conditions shall include:
    - a. The revocable license shall be issued to the operator of the adjacent business, and shall not be transferable.
    - b. The extension area shall be permitted only in conjunction with the establishment which is operating in the adjacent building and to which the extension area is appurtenant.
    - c. The licensee shall notify the planning department and police department at least three working days in advance of the date work is to begin to establish the outdoor use.
    - d. The licensee shall take actions to assure that the use of the extension area in no way interferes with pedestrians or limits their free and unobstructed passage.
    - e. The extension area and all its contents shall at all times be maintained in a clean and attractive condition; all landscaping and planting shall be maintained in a presentable and healthy condition.
    - f. The extension area shall be operated in conformance with guidelines contained in this part, and the hours specified in the approval.
    - g. The extension area shall be operated in conformance with any applicable city, county or state laws.
    - h. Use of the extension area is approved for an indefinite term, except as it may be limited as a condition of the approval, but shall be subject to termination at any time on thirty days' prior written notice upon a determination by the city that the public interest requires vacating the extension area, or as provided in Section 24.10.2340 subsection (4)(g).
    - i. The licensee shall meet the liability and insurance requirements of Section 24.10.2340, subsection (7).
  5. Notice and Appeals.
    - a. Prior to action on an application for use of an extension area, notice shall be given to adjacent businesses and property owners within fifty feet of the proposed use. Notice shall be given at least five calendar days before action, and shall be in writing.
    - b. Any final action by the zoning administrator shall be appealable within ten calendar days. Appeals shall be filed with the planning and community development department, shall state the reason for appeal, and be accompanied by a \$50.00 appeal fee.
    - c. An appeal from a final action of the zoning administrator shall be to the zoning board, and shall follow the same procedures for appeals contained in this title.
    - d. Appeals from the action of the zoning board shall be made to the city council, through the city clerk, and shall follow the same procedures as contained in this title.
  6. Action on the Extension Area Application.
    - a. If the application is complete and conforms to the requirements of this part, the application shall be

heard by the zoning administrator who will conditionally approve or deny the application. The zoning administrator may continue the hearing on the application as may be appropriate.

b. In acting on the application, the zoning administrator shall take into account:

- (1) The width of the sidewalk where the extension area use is proposed to be located.
- (2) The design and relationship of the extension area and its use to other existing or planned uses of the street.
- (3) The amount of pedestrian use of the sidewalk and the impact of the extension area use of the sidewalk.
- (4) Conformance of the extension area use with the Downtown Recovery Plan.

c. Before approving an extension area use and granting a revocable license, the zoning administrator shall make the following findings:

- (1) The extension area in the particular location on the sidewalk will not adversely affect the use of the public street, will implement the Downtown Recovery Plan and the General Plan, and
- (2) The proposed use will not be detrimental to persons residing, visiting or working in the area, and
- (3) The proposed use will conform to all relevant regulations in the Municipal Code, and applicable county regulations and state law.

d. Denial, Revocation or Suspension of License. The zoning administrator may deny, revoke, or suspend a license for use of an extension area if it is found:

- (1) That the provisions of this part or conditions of approval have been violated.
- (2) Any necessary health permit has been suspended, revoked or canceled.
- (3) The licensee does not meet the insurance requirements of the license.

e. Ten days' written notice of proposed action of denial, revocation or suspension shall be given to the property owner and holder of the revocable license.

f. Effective Date of Action.

- (1) Revocation or suspension of a license on the basis of subsections (6)(d)(2) or (6)(d)(3) shall be effective upon the action. An appeal shall not stay such action.
- (2) All other final actions shall become effective ten calendar days following the action, unless appealed. An appeal shall stay the action.

#### 7. Liability and Insurance.

a. Licensee shall agree to indemnify, defend, and hold harmless the city, its officers, agents and employees, from and against any and all claims, demands, actions, damages, or judgements, including associated costs of investigation and defense, arising from any omission, fault, negligence, or other conduct of licensee in connection with licensee's occupancy, activity, use, maintenance, or repair of the extension area.

b. Without limiting the foregoing in any way, licensee shall carry liability insurance in the amount not less than \$1,000,000.00 per occurrence combined single-limit bodily injury, personal injury and property damage liability coverage.

c. Licensee shall obtain and maintain, during the term of the license, Workers' Compensation Insurance, covering all of its employees on the premises of the extension area, with a company satisfactory to the city. Licensee shall be responsible for the insurance coverage as herein provided of all employees of said

licensee.

d. Licensee shall obtain bodily injury and property damage liability insurance to cover vehicles used or maintained by it in the performance of work, with liability limits of not less than \$1,000,000.00 combined single-limit per occurrence.

e. For all insurance provided above, policies shall provide that the same cannot be canceled except upon thirty days' written notice to the city.

f. Except for Workers' Compensation, all insurance provided shall name the city of Santa Cruz, its officers, agents and employees as additional insured and shall include cross liability in favor of the city, its officers, agents and employees.

g. A certificate of insurance shall be furnished to the city as evidence of the above coverage and conditions prior to the use of an extension area. Any statements that relieve the insurance company from liability if notice of cancellation is not provided to the city are not acceptable.

(Ord. 91-29 § 2 (part), 1991).

#### **24.10.2350 PROJECTS WITH APPROVED ZONING PERMITS.**

Development projects with zoning permits approved prior to the effective date of this part may proceed to construction under the terms of earlier approvals and regulations effective at the time of approval.

(Ord. 91-29 § 2 (part), 1991).

### **Part 24(A): CBD SUBDISTRICT E – LOWER PACIFIC AVENUE**

#### **24.10.2360 PURPOSE.**

The purpose of the Lower Pacific Avenue Subdistrict Zone is to encourage the development/redevelopment of the Lower Pacific corridor between Laurel and Front Streets as an important linkage between the Downtown and the Beach. Its intent is to extend the commercial and mixed use developments of the Downtown along Lower Pacific Avenue in a manner that is compatible with and linked to the regional tourist serving uses of the Beach.

(Ord. 2000-18 § 10 (part), 2000).

#### **24.10.2361 PRINCIPAL PERMITTED USES.\***

\* Editor's Note: This section was formerly numbered as Section 24.10.2360. Ord. 2000-18 § 10 renumbered it to be Section 24.10.2361, at which time a new Section 24.10.2360, entitled Purpose, was added.

1. The following uses are allowed outright in the Lower Pacific Avenue Subdistrict, subject to a design permit and other requirements of the Municipal Code. (Numerical references at the end of these categories reflect the general use classifications listed in the city's Land Use Codes. Further refinement of uses within these categories can be found in the Land Use Codes, but they are not intended to be an exhaustive list of potential uses.)

- a. Acting/art/music/dance school and studios (610);
- b. Apparel and accessory stores (250);
- c. Eating and drinking establishments (excepts bars, fast food), subject to live entertainment and alcohol regulations of Chapter 24.12 (280);
- d. Educational facilities (public/private) (510);
- e. Food and beverage stores (except liquor and convenience stores) (240);
- f. General retail merchandise (drug and department stores) (230); not exceeding 16,000 square feet per