

## TEMPORARY OUTDOOR SEATING POLICY AND PROCEDURES FOR CITY RIGHT-OF-WAY, CITY-OWNED PROPERTY, AND PRIVATE RETAIL AREAS

### Intent

The City of Universal City recognizes the importance of outdoor dining for the prosperity and vitality of its commercial districts, particularly during this time of pandemic restrictions caused by public safety concerns relating to Covid-19. The purpose of the City's Temporary Outdoor Seating Policy is to allow for and to support this desirable activity while considering State guidelines issued by Governor Abbott or any local Public Health Agency Orders that impose occupancy limits and specific physical distancing requirements on restaurants. The intent of this program is to provide some measure of relief to restaurants by allowing additional occupancy and seating that allows for physical distancing and the safety of their patrons.

A no-fee permit is required to allow for the setup of a Temporary Outdoor Seating Area. Temporary Outdoor Seating Areas established under this permit are considered temporary and shall not constitute an approval of permanent outdoor seating. Temporary Outdoor Seating Areas approved under this permit must be removed as required by Executive Order of the Governor, as otherwise required by State law, or when the City determines that such temporary permits are no longer valid.

### Definitions

**Temporary Outdoor Seating Area:** A space provided by a restaurant, tavern/bar, winery, or brewery, upon the same property or upon the public right-of-way adjacent to said business or within reasonable proximity to the business, as determined by the City of Universal City. The Temporary Outdoor Seating Area is within a defined area, contains tables and chairs for seating, and is delineated with temporary barriers at the perimeter of the defined seating area.

**Qualifying Establishment:** Temporary Outdoor Seating Areas are available by permit to restaurant, bakery, brewery, tavern/bar, or winery businesses. Temporary Outdoor Seating Areas may be provided by any business as long as minimum requirements are met and the business is listed under the businesses allowed to operate under Governor Abbott's Plan for Covid-19.

**City Right-of-Way:** For the purpose of this policy, right-of-way shall include sidewalks, pathways, green space, streets, and on-street parking. Private property may include the temporary consideration of parking lots, parking spaces, sidewalks, paths and yards for Outdoor Seating.

### Applicability

The following standards apply to all establishments located within the City of Universal City that seek to offer a Temporary Outdoor Seating Area within the City's right-of-way, on City-owned property, and within required Parking Areas and pedestrian areas for businesses.

All establishments seeking to offer a Temporary Outdoor Seating Area shall submit an application to the City of Universal City for review and approval. No establishment shall offer a Temporary Outdoor Seating Area within the City's right-of-way or on City-owned property until such time as the establishment has been granted a Temporary Outdoor Seating Area Permit. The term of the permit will be for the duration of the executive order for the Covid-19 Pandemic or authorized extension by City Administration.

## Application Process

Final approval of any application for Temporary Outdoor Seating Areas will be at the discretion of the City Manager or their designee; however, all permit applications shall be submitted to the Development Services Department at City Hall for processing. Once received, the application will go through the following process:

1. A copy of the completed application will be distributed to the Development Services Department (including Building Division), Fire Department and Public Works for an interdepartmental review. If the applicant for the Temporary Outdoor Seating Area is not the property owner, the applicant must provide written evidence of approval from the property owner to allow the use of their property for this purpose. If any portion of the Temporary Outdoor Seating Area is to be located within a parking lot, the property owner's written approval must specifically authorize the installation of barriers that would be placed to isolate and protect customers from vehicular traffic and must approve any proposed temporary reduction of available parking spaces.
2. Once an application is deemed complete and departments have been afforded the opportunity to comment, the application shall be reviewed and approved administratively by the City Manager or their designee who will advise the Development Services Department to have the applicant obtain a copy of the permit.
3. If an application is deemed incomplete or there are significant and outstanding issues as a result of the interdepartmental review, the Development Services Department will contact the applicant for modifications. These items must be addressed prior to final approval by the City Manager or their designee.
4. **If an application is denied, the applicant may request an appeal to the City Council for consideration.**

**The City Council will review the application and may vote to approve the Permit, deny the Permit, or table the request to a future public meeting for consideration.**

## Application Requirements

All establishments seeking to offer temporary outdoor seating during the Covid-19 pandemic must complete the application in full. Along with a completed application, all applicants must submit the following for review:

- **Site Plan:** Showing the proposed outdoor seating area with measurements (including a representation showing at least **three (3) feet of unobstructed private sidewalk width or four (4) feet of unobstructed public sidewalk width** remaining for pedestrian access) and six (6) feet of separation of patrons from adjacent seating of patrons. Tables must be at least 10 feet from any roadway that is not otherwise closed. No more than six (6) persons may be allowed in any seating group at a time.
- **Photos or Drawings of Furniture:** Must include all chairs, tables, flower boxes, fences, barriers, umbrellas, or other items to be placed within the outdoor dining area.
- **Safety Plan:** Showing vehicular movements, spacing of patrons, policies for servers wearing masks, cleaning of fixtures and furniture, restroom access and use and anything additional that may be required to ensure safe setup of Outdoor Seating Areas.
- **Liability Coverage:** Applicant shall provide proof of liability insurance of not less than one million dollars (\$1,000,000) per occurrence, further naming the City of Universal City as an additional insured party. All applications for use of City rights-of-way or City-owned property for temporary outdoor seating will require the completion of a hold harmless agreement.

## Outdoor Seating Area Standards

1. **RESERVED** Applicants may reserve and create space for accessory outdoor dining and patios with table seating in connection with a permitted restaurant or bar. Outdoor dining areas may be in the following areas:

- A maximum of 33 percent or one-third of existing private parking lots may be utilized for a restaurant patio extension for a currently permitted restaurant, subject to the written approval of the of the owner of the parking lot.
- A maximum of 25 percent or one-quarter of existing front and side yards of an existing lot. Rear yards will be considered on a case-by-case basis.
- A clear travel path of **3-feet in width** and meeting ADA accessible path requirements must be maintained, subject to the written approval of the of the owner of the sidewalk/path.
- A clear travel path of **4-feet in width** and meeting ADA accessible path requirements must be maintained and is subject to a license agreement approved by the Town.

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1. **Barriers:** Dining area barriers (fences, gates, planters, etc.) must be durable, visually appealing, and separate the dining area from the sidewalk. All barrier materials shall be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion, or chipped or peeling paint.

**A variety of styles and designs are permissible for outdoor seating area barriers:**

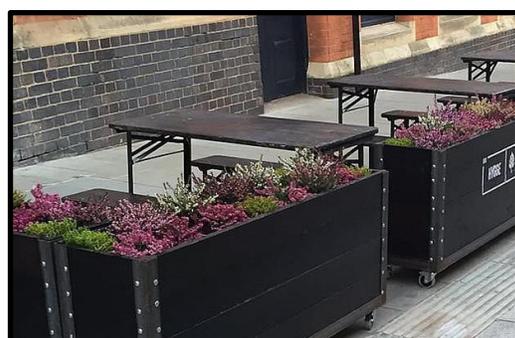
**Sectional Fencing:** Sectional Fencing, generally defined as rigid fence segments that can be placed together to create a unified fencing appearance. Such fencing is portable, but cannot be easily shifted by patrons or pedestrians, as can less rigid forms of enclosures. Sectional fencing must be of metal, wood, or PVC construction and have a finished stain or paint.



**Rail Fencing:** Rail fencing (generally defined as posts with rigid, horizontal panels, boards, or poles) is a permitted fencing type. Rail fencing must be constructed of wood or metal and must be stained or painted and affixed to the post by screws or other acceptable method to create a stable structure.



**Planter boxes:** Planter boxes may be used as a barrier as long as they are at least 30 inches in height and stable.



**Freestanding:** Any barrier (whether sectional or rail-type) must be freestanding, without any permanent or temporary attachments to sidewalks or other public infrastructure – or must obtain specific permission from the Director of Public Works and Engineering or his designee to affix.

**Posts:** Vertical support posts (stanchions, bollards, etc.) must be constructed of wood, metal, or PVC. If the post is attached to a base, that base must be flat and must measure no more than one-half of an inch above the sidewalk surface. Domed stanchion bases are permitted only in cases where the Village Board of Trustees determines that such bases will not pose a threat or hazard to patrons or pedestrians. Stanchion bases shall not project into any portion of the required four (4) foot minimum unobstructed pedestrian space.

**Weight:** All posts must be weighted to prevent inadvertent movement.

**Alternative Options:** Alternative options may be approved at the discretion of the Police Chief or their designee.

## 2. Music and Live Performances

**a. Pre-recorded Music, Live Music, and Non-Musical Live Performances:** Requests for any type of music or live performances must be submitted with Temporary Outdoor Seating Area Applications or via a supplemental request letter to the Village. All music must cease no later than 10 p.m. and the Village reserves the right to deny any request due to concerns of crowds, noise, parking, traffic, or other issues. The Police Chief or their designee will provide approval or denial of such requests.

## 3. Activities

- a. Permitted Activities:** Outdoor seating areas may be used for dining-related activities such as additional seating, waiting area, tasting area, 'light' menu area, or similar activities. Any dining-related activities must be included in the materials provided at the time of application and may not be added without approval from the Village of Mundelein.
- b. Non-Permitted Activities:** The use of the outdoor dining area for other activities, except those specified in Section 3.2 Permitted Activities, is prohibited. All activities occurring within the outdoor dining area shall be related to the consumption of food and beverages prepared on site by the establishment.
- c. Remote Location:** Temporary requests for use of properties in remote locations will be considered on a case-by-case basis.

## Additional Regulations – Outdoor Seating Areas

- 1. Violations:** It shall be unlawful for any person, firm or corporation to operate a Temporary Outdoor Seating Area contrary to or in violation of these standards. Any person, firm, or corporation who violates any of these standards is subject to being fined and/or having their permit suspended or revoked.

In general, the process for enforcement may include the following:

- a. A verbal or written warning to the owner of the business operating the outdoor dining or outdoor seating facility.
  - b. Fines of \$25.00 - \$750.00 for each day a violation exists. The fine shall begin at \$25.00 per violation per day, and increase incrementally for each additional occurrence of the same violation or additional violations within a different time period than the initial violations.
  - c. Suspension/revocation of privilege, including removal of elements of outdoor seating facility.
  - d. Further legal action.
- 2. Certificate of Approval:** All establishments seeking to offer outdoor seating that are approved by the Village will be provided with a Certificate of Approval. This certificate shall be posted in a conspicuous place for the duration of the outdoor seating activity. Failure to properly post the certificate can lead to enforcement action such as those listed above.
  - 3. Hours of Operation:**  
All activities associated with a Temporary Outdoor Seating Area Permit shall cease no later than 11:00 p.m. Establishments wishing to hold a special event of longer duration shall request approval from the Village prior to the event.
  - 4. Smoking:** Smoking shall be prohibited within all permitted outdoor seating areas on Village right-of-way or Village-owned property.
  - 5. Right to Revoke or Deny:** The Village is under no obligation to approve Temporary Outdoor Seating Areas within the Village's right-of-way, Village property or required Parking Areas, and may revoke or deny permits at its sole discretion or apply certain conditions of approval.