

***CITY OF ESCALON***  
***BUSINESS POLICY***  
***FOR OUTDOOR DINE-IN RESTAURANTS***  
***& COMMERCIAL BUSINESSES***

# Requirements

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# Overview

To the extent this guidance conflicts with any existing permit policies and procedures regarding encroachments for outdoor dining activity, this Policy temporarily supersedes or amends such policies and procedures under the City of Escalon's Municipal and Zoning Codes. This policy is subject to change and expires upon direction provided by the City Council.

## Requirements to Expand All Outdoor Commercial Operations:

1. **Follow State and local dine-in best practices and physical distancing standards:**
  - a. **State Issued Dine-In guidance:** <https://files.covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf> and Checklist, <https://files.covid19.ca.gov/pdf/checklist-dine-in-restaurants.pdf>
  - b. **Retail and Commercial Businesses:** <https://covid19.ca.gov/industry-guidance/#county-attest>
2. **Follow requirements of the American Disabilities Act (ADA)**
  - a. <https://www.dor.ca.gov/Home/Title24>
3. **Follow requirements of Alcohol Beverage Control (ABC)**
  - a. <https://www.abc.ca.gov/fifth-notice-of-regulatory-relief/>

## Additional Requirements to Expand on Private Parking Lots:

1. **Follow all requirements listed above**
2. **Obtain Property Owner's Consent**
3. **Sign Indemnification Agreement and provide evidence of insurance.**

## Additional Requirements to Expand on Sidewalks:

1. **Follow all requirements for all expand outdoor commercial operations**
2. **Follow the standards detailed beginning on Page 5 of Policy.**
3. **Sign Indemnification Agreement and provide evidence of insurance.**

## Standards for Tents and Shade Structures:

1. **Follow all requirements detailed on Page 7 of Policy.**

## How do I obtain City Approval?

1. **Complete and submit application (attached)**  
**Electronic:** [dromo@cityofescalon.org](mailto:dromo@cityofescalon.org) or **Hard Copies** to City Hall, 2060 McHenry Avenue, Escalon, CA. 95320.
2. **Applications will be returned to the Applicant indicating an approval or denial.**

## Special Temporary Outdoor Policy

This Policy has been established to assist with businesses having the greatest ability to operate successfully through Phases 2 and 3 of the Governor's Roadmap to Recovery<sup>1</sup>. This guidance temporarily supersedes existing permit and code policies and procedures regarding outdoor activities.

### Temporary Outdoor Dining and Commercial Activity on Private Property

Restaurant and commercial businesses with access to private sidewalks or private parking may utilize these areas for dining activities in accordance with guidelines identified in the previous section.

#### Private Parking Lots

With property owner consent, private parking spaces within 25 feet of a restaurant or commercial business may be converted to outdoor dining space. The proposed converted parking space to dining use must comply with public safety standards for emergency rescue, building access, and physical distancing requirements. Additionally, no parking for disabled persons may be repurposed for restaurant or commercial use and there should not be any congestion of vehicular and pedestrian traffic.

### Temporary Outdoor Dining and Commercial Activity in Public's Right-of-Way

The City of Escalon will allow restaurant and commercial businesses to expand operating space in designated portions of the public's right-of-way. These areas are limited to sidewalks, and with the appropriate City approvals, on adjacent street parking spaces or on City roadways.

To participate in the program, minimum requirements within the Americans with Disability Acts (ADA) must be met.

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<sup>1</sup> <https://covid19.ca.gov/roadmap/>

<sup>2</sup> <https://files.covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf>;

Checklist: <https://files.covid19.ca.gov/pdf/checklist-dine-in-restaurants.pdf>

## Sidewalks

### *General Requirements*

Outdoor dining and commercial activities within sidewalks shall maintain:

- Adequate pedestrian flow of 6' should be achieved at all times, but 4' at the minimum.
- Unobstructed access to public utilities, building entrances, crosswalks, bus stops and transit entrances;
- Pedestrian and traffic safety; and
- Aesthetic compatibility with surrounding area

### *Location Requirements*

1. The width of the extended outdoor premise is restricted as follows:
  - a. Shall not exceed the width of the sidewalk frontage of the applying property.
    - i. Achieving the minimum physical distance of 6' from individuals occupying a neighboring outdoor space, 4' at the minimum.
2. A clearly marked, unobstructed, and durable pedestrian right-of-way, also known as a "pedestrian path", that meets required accessibility standards, of 6' shall be achieved for each sidewalk outdoor dining area (4' at a minimum), which shall adhere to the following standards:
  - a. The minimum distance of the pedestrian path shall be measured from the portion of the sidewalk dining space boundary which is nearest either the nearest curb or the nearest obstruction.
  - b. Sidewalk dining areas shall achieve a clearance of 6' around the edge of other sidewalk dining or commercial areas measured in radius.
3. The pedestrian path shall achieve a 6' distance from large obstructions. No tables, or chairs, umbrellas or other fixtures shall be permitted within 6' of a pedestrian crosswalk or any curb cut. For the purposes of this section, large obstructions shall be bus stops shelters, newsstands, existing planters or any other object greater than fifteen (15) square feet in area.
4. Access to fire hydrants, fire hose connections for sprinkler systems, and entrances and exits of all buildings shall not be obstructed at any time by barriers or seating. The twenty (20) foot fire lane shall not be obstructed at any time. There shall be a minimum of forty (40) inches in distance separating the edge of a table or chair to a fire department connection.

## Physical Modifications/Signage; Lighting and Umbrellas

1. Appropriate lighting of the sidewalk dining or commercial space is required if operating outside of daytime hours.
2. Use of landscaping and planters as a buffer is permissible, however these materials should not be permanently affixed to any public rights-of-way.
3. Use of removable barriers to define the sidewalk dining space is permissible.
4. No heating, cooking or open flames are permitted in the sidewalk dining area. However, space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.
5. No food preparation, plastic food displays, food storage, or refrigeration apparatus shall be allowed in the public right-of-way.
6. Umbrellas and other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. No portion of an umbrella shall be less than six (6) feet, eight (8) inches (eighty (80) inches) above the sidewalk.

### *City of Escalon Right to Clear Right-of-Way*

The City reserves the right to remove dining space in public right-of-way that (i) creates an obstruction to, or causes congestion of, pedestrian or vehicular traffic due to existing conditions on the surrounding public right-of-way if it finds the installation represents a danger to the health, safety or general welfare of the public (ii) a business violates the requirements of these Guidelines or State and Local orders.

The City may require the removal, temporary or permanent, of the sidewalk dining space when redevelopment or improvements of the street or sidewalk, or utility repairs necessitates such action, or the business fails to comply with the criteria set forth in existing City ordinances. Any costs incurred by the City for removal or storage of sidewalk tables, chairs and other equipment shall be the responsibility of the business. The City is not responsible for any damages or loss of equipment removed pursuant to this subsection.

## Alcoholic Beverages

Restaurants and food establishments licensed by the State of California will be permitted to sell and allow on-premise consumption of alcoholic beverages within expanded dining areas on private property, on immediately adjacent sidewalks, and dining areas that have been closed to traffic by the City of Escalon. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a physical barrier that meets the requirements of the Alcoholic Beverage Control Board. The business owner is responsible for managing these barriers and removing them when necessary.

**For revised ABC regulations, visit:** <https://www.abc.ca.gov/fourth-notice-of-regulatory-relief/>.

Restaurants utilizing public rights-of-way for outdoor dining shall comply with the following closing times:

- Thursday through Saturday – close at 12:00 AM
- Sunday through Wednesday – close at 10:00 PM

## **Tents or Shade Structures on Sidewalks, On-Street Parking Spaces, or Closed Street**

1. The following requirements shall apply to use of non-flammable tents or shade structures within public spaces:
  - a. The maximum size tents that may be placed within sidewalks and parking spaces will be 10-foot by 10-foot.
  - b. No staking of tents is permitted in public right-of-ways.
  - c. All tent legs must be weighted at each leg by a minimum of 40lbs.
  - d. Weights must be securely attached to canopy roof and canopy leg separately
    - i. Ropes and straps should be high quality
    - ii. Bungee or rubber straps are prohibited
  - e. Weights must be on the ground and not dangling
  - f. Weights and lines must not pose a hazard and be clearly visible
  - g. For maximum safety, tents should be secured as soon as they are put up, and brought down as soon as weight is removed.
    - i. Do not leave unsecured tents at any time.
  - h. Heaters of any kind shall not be used under tents or umbrellas.
  - i. Smoking is prohibited under tents and shade structures.
  - j. Tents must not have closed walls in place while open to the public, and all sides should be open for air flow.
  - k. Items that make acceptable weights:
    - i. 5-gallon bucket full of water, sand, or concrete
    - ii. 4" PVC pipe at least 36" long filled with concrete

- iii. Large commercially available tent weights
- iv. Sandbags or salt bags 40lbs or heavier
- v. Requirements for tents larger than 100 square feet or groups of tents/canopies less than 400 square feet.
  - 1. Shall only be placed on private property or city parks (not sidewalks or streets) and adhere to
  - 2. Must comply with IFIA (Industrial Fabrics Association International) Tent Handbook<sup>4</sup>
- vi. For tents/canopies or groups of tents/canopies larger than 400 square feet, please contact the Building Department at (209) 691-7430 prior to setup.

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<sup>4</sup>A digital copy can be made available by contacting the Development Services Department at (209) 691-7430

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# CITY OF ESCALON

DEVELOPMENT SERVICES

2060 McHenry Avenue ▪ Escalon, California 95320 ▪ Office 209.691-7430 Fax 209.691.7439

## OUTDOOR DINE-IN RESTAURANTS & COMMERCIAL BUSINESSES APPLICATION

**Application Date:** \_\_\_\_\_

**Type of Application:** Check all permit conditions that apply

- |  |  |
|--|--|
| <input type="checkbox"/> Restaurant or Bar         | <input type="checkbox"/> Retail or Commercial Business |
| <input type="checkbox"/> Outdoor (Public Sidewalk) | <input type="checkbox"/> Outdoor (Private Property)    |
| <input type="checkbox"/> Street Closure            | <input type="checkbox"/> Outdoor (Public Sidewalk)     |

1. Business Address: \_\_\_\_\_

2. Name of Business : \_\_\_\_\_

3. Street Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

4. Business Owner Name: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

5. Other Persons to be placed on distribution list: (For additional names, add on separate sheet).

Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

6. Property Owner: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

***PROPERTY OWNER'S AFFIDAVIT:*** *I hereby certify under penalty of law that I am the owner of the above-referenced property and authorize the temporary outdoor restaurant operations as described herein.*

\_\_\_\_\_  
Property Owner's Signature

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**RECOGNITION, AGREEMENT AND CONSENT**

I state that, as the property owner(s), I (we) have read the completed application and know the contents hereof. I declare under the penalty of perjury that the information contained in this application and the plans and supporting materials submitted herewith are true and correct of the best of my (our) knowledge.

\_\_\_\_\_  
Owner's Name (Print or Type)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner's Signature

I certify under penalty of perjury that I am authorized by the property owner (s) of the described property to make this application.

\_\_\_\_\_  
Applicant's Name (Print or Type)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature

**Please confirm that you have included the following items with this Application:**

**1. Complete Site Plan showing the following: *(may be drawn by hand)***

- *Location of proposed activity*
- *Number of tables and chairs to be provided*
- *All barriers and buffers*
- *All Tents and Shade Structures and their dimensions*
- *Location of any signage, lighting sources, and umbrellas*
- *All Pedestrian Paths, required clearances, and their dimensions*
- *Building Entrances/Exits and any Fire hydrant locations*
- *Signed Indemnification Agreement (Attached).*

EXHIBIT 1

**INDEMNIFICATION, DEFENSE AND HOLD HARMLESS  
AGREEMENT**

To the greatest extent permitted by law, Permittee,

\_\_\_\_\_  
[PRINT NAME]

shall indemnify, defend, and hold harmless the City of Escalon and its elective and appointive boards, officers, agents, employees, and volunteers from and against all claims, damages, losses and expenses, including attorney fees arising out of, resulting from or in any manner related to, the granting of the attached special temporary outdoor operations permit and use of the City's property; including, but not limited to, claims, damages, losses or expenses attributable to bodily injury, sickness, disease or death, loss of business, or injury to or destruction of tangible property including the loss of use resulting therefrom, regardless of whether or not it is caused in part by a party indemnified hereunder.

In the event the City determines that it is necessary to take legal action to enforce any of the provisions of these conditions, and such legal action is taken, the applicant shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the city should otherwise agree with applicant to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails on every issue in the enforcement proceeding.

Permittee hereby acknowledges, understands, and agrees to the terms and conditions set forth in this Indemnification, Defense, and Hold Harmless Agreement and affirms that it is authorized and has legal authority to execute this Agreement.

Permittee verifies that the information in this application, any supplemental application, or attached item is true and accurate.

Applicant Signature: \_\_\_\_\_ DATE: \_\_\_\_\_

Print Name: \_\_\_\_\_

City personnel Signature: \_\_\_\_\_ DATE: \_\_\_\_\_

Print Name: \_\_\_\_\_

## EXHIBIT 2

Permittee/Applicant is required to submit the following documents as proof of insurance before issuance of the permit. The insurance coverage shall be at least one million dollars per occurrence and two million dollars in aggregate, or as otherwise required by the City.

- ☐ Certificate of Insurance “ACORD” evidencing commercial general liability, automobile liability, and applicable workers’ compensation coverages.
- ☐ Additional Insured CG 20 10 Endorsement naming “the City of Escalon, its elective and appointive boards, officers, agents, employees and volunteers.”
- ☐ Commercial General Liability Waiver of Subrogation Endorsement.
- ☐ Workers’ Compensation Waiver of Subrogation Endorsement.