

Outdoor Dining and Use of Public Right-of Way



APPLICATION PROCESS

OUTDOOR DINING PERMIT APPLICATION REQUIRED

Permit Required: No person shall place tables, chairs, or any structure for outdoor dining within the public right-of way without first obtaining an Outdoor Dining Permit. The Community Development Director shall have the authority to approve, conditionally approve, or deny an application for an Outdoor Dining Permit and shall provide written notification of the action taken to the applicant.

The Community Development Director may refer the application to the Planning Commission for review and recommendation if the proposed application is inconsistent with the Downtown Specific Plan, or where unique circumstances exist. The Community Development Director shall only approve or conditionally approve an application for an Outdoor Dining Permit if the following findings can be made:

1. The design, location, and layout of the proposed outdoor dining use are consistent with the requirements for use, development, design and permitting contained within Downtown Specific Plan Chapters 5, 6 and 10, and all other applicable laws and regulations.
2. That the proposed outdoor dining use will promote the continued development and revitalization of the City's pedestrian-oriented Downtown by assisting in the creation of a lively and inviting streetscape.

3. That the outdoor dining use will not pose a danger to the public health, safety, or welfare, and/or any violations of these standards or the conditions of a previous permit have been abated or corrected prior to the issuance of a subsequent permit.

Permits for subsequent years will be issued on a first come basis.

Annual Permit: An Outdoor Dining Permit for Flex Zone dining shall be valid for a period of eight months, beginning in March and ending in October. All other outdoor dining activities require a complete application to be submitted for an Outdoor Dining Permit as defined above, including the service and maintenance agreement, valid insurance coverage, and payment of fees.

The Community Development Director shall approve, conditionally approve, or deny the permit request, and shall provide written notification of the action taken to the applicant.

Outdoor Dining permit is not transferable: Interruption of Use: An Outdoor Dining Permit is an interruptible privilege. The City may interrupt the operation of an outdoor dining use at any time due to anticipated or actual conflicts. Such conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades or marches, repairs to the public right of way, or demonstrations or emergencies occurring in the area. Outdoor dining uses shall be permitted to continue during special events unless the City of Livermore specifically requests that the use temporarily discontinue for the duration of the event. Such request may include the removal of all use furnishings.

Permits and Required Documents

- Outdoor Dining Permit
 - General Planning Application together with one (1) copy of site plan 8.5" x 11", preferably submitted electronically.
 - The site plan must include:
 - Address
 - The underlying right-of-way
 - An outline of the area proposed for outdoor dining use and the location of any existing and adjacent outdoor dining uses
 - The proposed layout of all use furnishings, including, but not limited to, tables, chairs, umbrellas, heaters, planters, fencing, signage, etc.
 - The proposed electrical connections to serve the use – if electrical service is requested (electrical service is permitted for lighting in the Flex Zones only).
 - The proposed circulation to and from the outdoor dining use and the associated business, general pedestrian circulation, and building ingress/egress.

- Location of all proposed signage. (Note: A separate sign application and fee ARE NOT required.)
 - Location of all buildings and structures adjacent to the outdoor dining use, including the building proposing the use.
- A letter of agreement signed by the underlying property owner, to the extent practicable, and adjacent business owner(s) if the outdoor dining use is requesting to expand in front of an adjacent business. The applicant must demonstrate that the proposed use will not block the display windows or signage of the adjacent business(s).
 - Specifications for the design, colors, and materials of all proposed furnishings including but not limited to tables, chairs, umbrellas, heaters, planters, fencing, trash receptacles, etc., demonstrating that all furnishings are of commercial grade and designed for outdoor use and consistent with the requirements of the DSP Master Design Program for Outdoor Dining.
 - Specifications for all proposed signage.
 - A lighting plan, including under umbrella, table lighting, and any other lighting proposed, showing fixture and lamp type and locations.
 - An operational schedule including hours, days, and months (outdoor dining uses within the sidewalk area shall be required to operate for a minimum of 4 hours per day, and outdoor dining uses within the Flex Zone shall be required to operate for a minimum of 8 hours per day, 6 days a week as weather permits).
 - Evidence of Comprehensive Liability Insurance, evidence of Workers Compensation Insurance, and a signed copy of the Outdoor Dining Maintenance and Removal Agreement, including a Hold Harmless and Indemnification provision (that indemnifies and holds harmless the City of Livermore, its officials, employees, agents and volunteers, and the underlying property owner(s)), in a form approved by the City's Risk Manager, as approved by City Council Resolution 2005-246.
 - A copy of the applicant's approved City of Livermore business license.
- Please submit the entire packet to the Planning Division electronically at planning@cityoflivermore.net, or in person at 1052 S Livermore Ave, Livermore, CA 94550

Fees and Space Allocation

The applicant shall pay the following fees on an annual basis:

- Zoning Use Permit: **\$501**
- Maintenance Deposit: **\$279**
- Maintenance reimbursement charge: **\$0.15** per square foot
- Electrical reimbursement charge: **\$40.00** annually

Allocation of Flex Zone:

Allocation of the Flex Zone for outdoor dining shall be based on frontage between the extended property lines of the building in which the associated fronting ground floor storefront or restaurant use is an occupant. Where more than one-half of the total square footage of a parking space is located between the extended property lines, an application for allocation of that parking space may be made by the owner or tenant of such use.

Where one-half or less of the total square footage of a parking space is located between the extended property lines, an application for allocation of that parking space may be made by the owner or tenant of such use, but shall require the written agreement of the affected underlying property owner, at no compensation, and shall be conditionally allocated until such time the affected adjacent ground floor storefront restaurant use requests and is approved for allocation of the Flex Zone fronting their use. In such circumstance, the extended property line will become the dividing mechanism between the two allocated uses, and 15-day notice shall be given to vacate any previous conditional allocation that is outside a use's property line extensions.

There is a limited number of parking spaces available for flex zone dining. Flex Zone spaces cannot exceed 25% of all parking spaces west of Livermore Avenue, on First Street to M Street, including J, and K Streets between First and Second Street (District 1), and east of Livermore Avenue, on First Street to Maple Street, including McLeod Street between First and Second Street (District 2).

ADA parking spaces are not eligible to be a part of Flex Zone. Applicants who have ADA parking spaces along their frontage and who wish to participate in the flex zone activity, should contact the Community Development Department.

Sidewalk Allocation:

Allocation of the sidewalk area for outdoor dining uses shall be based on frontage between extended property lines (on corner lots this applies to both frontages), and shall meet the following standards:

- Outdoor dining uses shall be limited to an area beginning at the building wall or sidewalk steps and extending into the sidewalk area, provided that a minimum five-foot sidewalk corridor is maintained.
- Outdoor dining uses shall not be permitted directly adjacent to the semi-circular steps providing access from the sidewalk to the turf area of the Plaza.
- Where directly adjacent (not separated by structures or landscape features) to a City park or plaza (other than the plaza located at the southwest corner of First Street and Livermore Avenue), outdoor dining uses may request the use of paved areas within the park or plaza that are part of or connected to a sidewalk

or pedestrian pathway, provided that a minimum five-foot sidewalk/pathway corridor is maintained.

GENERAL STANDARDS

- Outdoor dining uses may request to use the sidewalk area, Flex Zone, or both.
- Outdoor dining uses within the Flex Zone shall use the entire area between the face of the bottom riser of the two-step curb and the back edge of the valley gutter.
- In the Flex Zone, outdoor dining use operators may propose to use a parking space located completely outside of their extended property lines and in front of an adjacent business with the written agreement of the underlying property owner, to the extent practicable, and adjacent business owner, at no compensation.
- In the sidewalk area, outdoor dining uses may propose to extend in front of an adjacent business outside of their extended property lines with the written agreement of the underlying property owner, to the extent practicable, and adjacent business owner, at no compensation. In no case shall such extension be permitted to block the display windows or signage of the adjacent business.
- The maximum number of parking spaces that may be converted to outdoor dining or is two per restaurant use.
- In the Flex Zone, one additional parking space may be requested (as available) from one side of an applicant's extended property lines.
- An outdoor dining use may be located directly adjacent to another outdoor dining use, where the extended property line will become the dividing mechanism between the two allocated uses.
- All outdoor dining uses shall meet ADA requirements.
- All outdoor dining uses shall maintain ingress/egress and pedestrian circulation pursuant to Uniform Building Code and Uniform Fire Code; and shall comply with the following minimum requirements (the City reserves the right to require larger clearance, ingress/egress, and pedestrian corridors depending upon the circumstances pertaining to the use area):
 - Maintain a minimum five-foot-wide access in a direct and straight path to the building entrance clear and unimpeded for ingress and egress.
 - Maintain a minimum five-foot-wide sidewalk corridor for general pedestrian circulation adjacent to the use.
 - Maintain a minimum 15-foot radius from street corner intersections, measured from the back of curb.
 - Within the sidewalk and Flex Zone areas, the City may require a minimum five-foot clearance adjacent to City street trees and furnishings, to allow for use of trash containers and benches by the general public, and to allow access for maintenance of planters, trellis structures, street lights and other street furnishings by City maintenance crews. City staff will review each applicant's site plan to determine if additional access or clearance is required.



Within the Flex Zone, planters constructed of sturdy, durable, and attractive materials consistent with this Program shall be placed within the Flex Zone adjacent to the valley gutter and along the sides of the use area to define the use area and protect users from vehicular traffic. Planters shall be provided, put in place, planted, maintained, and removed by the City (see furnishing standards below for site plan requirements).

Permanent changes to the Flex Zone or sidewalk area shall not be permitted. No decking or stages are permitted. Any Flex Zone, sidewalk, or City improvements, furnishings, and utilities damaged or destroyed by the outdoor dining use shall be replaced to City standards with the cost borne by the use operator.

Furnishings and decorations shall not encroach beyond the permitted use area or overhang pedestrian or vehicular circulation paths.

All outdoor dining area furnishings shall be maintained in a safe and clean condition. All sidewalk use furnishings shall be stored indoors nightly. Flex Zone use furnishings may be secured within the Flex Zone use area or stored indoors nightly. Furnishings shall not be stacked outside at any time.

All outdoor dining use areas shall be maintained in an attractive, clean (free from spills, litter, and other debris) and safe manner.

Signage shall be subject to the provisions of this Program.

Tablecloths are permitted to be cloth only. Vinyl tablecloths are not permitted. Tablecloths shall be brought indoors nightly and shall be clean when placed outside each day.

To minimize litter and debris, where table wait service is provided, or food is served to the customer on a tray to be taken and eaten on site in the outdoor dining area, plates, glasses, cups, and silverware made of permanent (non-disposable) materials such as glass, ceramic, and metal, and cloth napkins shall be required. The use of disposable food containers, utensils, and napkins is permitted only where food is served to the customer "to go" only.

Trash receptacles, consistent with this Program, shall be required for all outdoor dining use areas where food is served "to go" with disposable containers, utensils, and napkins. The applicant shall be responsible for maintaining the use area and trash receptacles in a clean and tidy manner, including emptying the receptacle daily, or more frequently if needed in high use areas, into the primary restaurant trash receptacle serving the business for proper disposal.

If an outdoor dining use offers alcoholic beverage service, such use operator shall be duly licensed by the State Department of Alcoholic Beverage Control and shall conform to the requirements of such license.

Outdoor dining uses shall comply with all applicable laws and regulations regarding the sale and service of food and beverages to the public.

Outdoor dining use area furnishings shall be removed immediately upon the permanent closure of the associated business.

Hours of Operation:

Outdoor dining uses within the sidewalk area shall be required to operate for a minimum of 4 hours per day, and outdoor dining uses within the Flex Zone shall be operate for a minimum of 6 hours per day, 6 days a week as weather permits.

Furnishing Standards:

All outdoor dining furnishings shall be of commercial grade and designed for outdoor use. All furnishings shall be properly maintained and cleaned regularly.

Tables and Chairs for Outdoor Dining

Tables and chairs shall be of the same or a similar and compatible design. Plastic or resin tables and chairs are prohibited. All tables and chairs within a use area shall be of the same or compatible color. Bright, reflective, and fluorescent colors are prohibited.

Permitted Materials:

- Framework: Wrought iron, fabricated steel, cast aluminum, cane or teak.
- Chair Seat: Wrought iron, fabricated steel, cast aluminum, cane, teak or rattan.
- Table Top: Solid tops of slate, marble, granite, faux stone, wrought iron, embossed aluminum, teak, tempered glass, and mesh tops of wrought iron and

aluminum are permitted. Plastic, resin, and plain metal table tops are not permitted.

Size:

- Table Top Dimensions: Square 28", Rectangular 36" x 24", round 30".
- Table Height: Standard café height up to 30".

Umbrellas and Umbrella Stands

Table center and freestanding umbrellas are permitted. All umbrella panels shall be of the same solid color. A complementary solid color may be used for trim (such as piping). Patterns (floral, stripes, etc.) and fluorescent colors are prohibited.

Permitted Materials:

- Umbrellas: Canvas only. Vinyl or plastic umbrellas are prohibited.
- Stands: Cast aluminum, wrought iron, fabricated steel, or wood.

Lighting

Under umbrella lighting (directional or tube) and tabletop lighting (candles or other low-level light sources) are permitted. Only the use of light emitting diode (LED) light sources is permitted. Lighting shall create a soft glow directed at the tabletop or cart surface. Lighting shall not create glare or fall outside of the use area. To provide for a warm glow, lighting sources shall be of warm white light (2700 to 3200 degrees Kelvin). Cool white lighting can create a harsh glare and is prohibited. Bare bulb neon, backlit signage, colored lights, blinking or "chasing" lights are prohibited. String lighting between buildings and trees is prohibited. String lights shall not be attached to any tree. A minimum 10-foot vertical clearance must be maintained if lights are hanging above any walkway.

Portable Heaters

Standing portable propane heaters are permitted, subject to review and approval by the Fire Department. Electric or fuel heaters other than propane are prohibited.

Trash Receptacles

Trash receptacles shall be of an appropriate size in relation to the use area and of materials and design compatible with other use furnishings. Businesses shall supply their own receptacles and shall not dispose trash into public receptacles.

Planters

Planters are required as a buffer between outdoor dining uses within the Flex Zone area. City maintenance staff shall plant and maintain (including water) the planters provided by the City for outdoor dining uses within the Flex Zone. In addition, planters will be provided and placed by the City of Livermore; however, they must be shown on the submitted site plan based on the following dimensions:

Rectangular planters: 24" wide x 36" long.

Round planters: 24" in diameter (to be used at corners and planter row ends). Where adjacent to a parking space divider that does not contain a tree or trellis, planter placement shall observe a 1-foot setback from the dividing line between

parking spaces. Planters adjacent to a parking space divider that contains a tree or trellis may be placed in-line with such tree or trellis. Planters shall be spaced approximately 6" to 12" apart along the street frontage and one-half the length of the sides of the use area, beginning at the valley gutter.

Fencing

If fencing is proposed it shall be designed of wrought iron or cast aluminum and shall not exceed 36" in height. If alcoholic beverages are to be served, fencing shall meet the requirements of the use associated license issued by the State Department of Alcoholic Beverage Control.

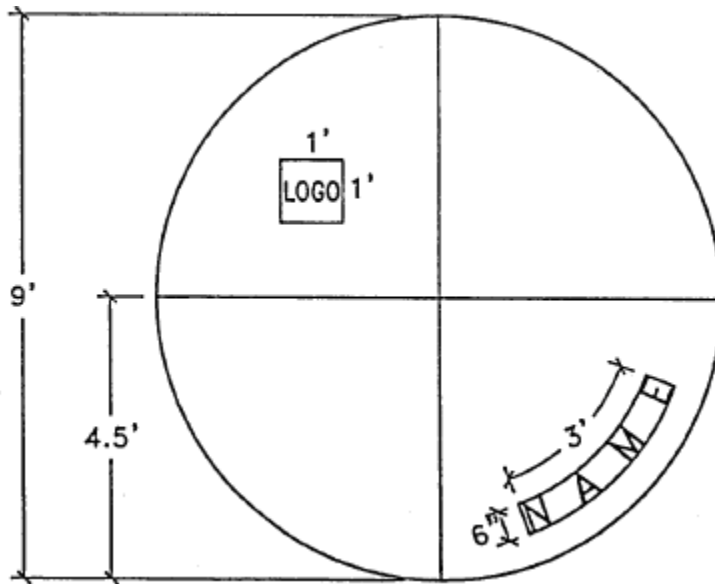
Other Decorative Items

- Padded fabric chair pads are permitted, shall be brought indoors nightly,
- and shall be clean when placed outside each day.
- Tabletop flower arrangements, centerpieces, and candles are permitted and shall be brought in nightly.
- Streamers, balloons, banners, and other decorative items not specifically permitted herein are prohibited.

Signage Standards:

Permitted signage for outdoor dining uses shall not count toward the business's aggregate signage under the provisions of Chapter 6 of the Downtown Specific Plan; however, shall be consistent with the design standards contained therein. All signage shall apply to the associated business only; no generic advertising, such as applying to and/or provided by, for example, beer, soft drink, ice cream or other third-party vendor sponsors shall be permitted. Signage for outdoor dining uses is limited to umbrella signs and menu boards as defined below.

Umbrella Signs: Each umbrella may display the name of the business twice on opposite panels or may display the name of the business once and the business logo once, each on opposite panels. Lettering shall not exceed 6 inches in height and logos shall not exceed one square foot. Total signage on each umbrella shall not exceed 10 percent of the area of the umbrella.



Menu Boards: Menu boards are limited to no more than 2' by 2' in size. Paper menus shall be mounted behind clear plastic covers. Chalk boards are also permitted. Menu boards may be mounted to the building façade or may be placed on a portable support with an overall height not to exceed 4 feet. The design of menu board supports, or frames shall utilize decorative metal or other high-quality materials that relate to the design of other furnishings within the use area.

Banner signs, electrical signs, illuminated signs, and other signage not specifically permitted herein are prohibited for outdoor dining uses.

Noise Associated with Outdoor Uses:

Noise levels shall be confined to the subject business and the associated outdoor dining areas and shall not intrude over and above the existing ambient noise (wind, water, birds, crowds, traffic, etc.) at a given location.

Background (acoustic or amplified) music is permitted, provided that exterior noise levels do not exceed 70 dBA between 7 a.m. and 11 p.m. No outdoor music is permitted after 11 p.m.

OUTDOOR DINING PACKET

INSTRUCTIONS:

Please provide the following information:

1. The applicant shall complete the general application.
2. The applicant shall provide one (1) paper or electronic copy of the site plan. The site plan should include the following:
 - a. Property address
 - b. The underlying right-of-way (and parking spaces if requesting to use the flexible zone) and the location of adjacent City street trees and furnishings, including, but not limited to, planters, light poles, trellis structures, benches, trash containers, kiosks, etc.
 - c. An outline of the area proposed for outdoor dining use and the location of any existing and adjacent outdoor dining uses.
 - d. The proposed layout of all use furnishings, including, but not limited to, tables, chairs, umbrellas, heaters, planters, fencing, signage, etc.
 - e. The proposed electrical connections to serve the use – if electrical service is requested (electrical service is permitted for lighting in the flexible zones only).
 - f. The proposed circulation to and from the outdoor dining use and the associated business, general pedestrian circulation, and building ingress/egress.
 - g. Location of all proposed signage. (Note: A separate sign application and fee ARE NOT required.)
 - h. Location of all buildings and structures adjacent to the outdoor dining use, including the building proposing the use.
 - i. Location, type and height of any fencing surrounding the outdoor dining use.
3. In addition to the general application and dimensional site plan, the applicant shall provide the following:
 - a. A letter of agreement signed by the underlying property owner, to the extent practicable, and the adjacent business owner(s) if the outdoor dining use is requesting to expand in front of an adjacent business. The applicant must demonstrate that the proposed use will not block the display windows or signage of the adjacent business(s).
 - b. Specifications for the design, colors, and materials of all proposed furnishings including but not limited to tables, chairs, umbrellas, heaters, planters, fencing, trash receptacles, etc., demonstrating that all furnishings are of commercial grade

and designed for outdoor use and consistent with the requirements of the DSP Master Design Program for Outdoor Dining.

- c. Specifications for all proposed signage.
- d. A lighting plan, including under umbrella, table lighting, and any other lighting proposed, showing fixture and lamp type and locations.
- e. An operational schedule including hours, days, and months (outdoor dining uses within the sidewalk area shall be required to operate for a minimum of 4 hours per day, and outdoor dining uses within the flexible zone shall be required to operate for a minimum of 8 hours per day, 6 days a week as weather permits).
- f. Evidence of Comprehensive Liability Insurance, evidence of Workers Compensation Insurance, and a signed Hold Harmless and Indemnification statement (that indemnifies and holds harmless the City of Livermore, its officials, employees, agents and volunteers, and the underlying property owner(s)), in a form approved by the City's Risk Manager, as approved by City Council Resolution 2005-246.
- g. The City will provide a copy of the Outdoor Dining Maintenance and Removal Agreement once the application has been processed. The applicant will be responsible for returning a signed copy of the Outdoor Dining Maintenance and Removal Agreement before operating in the Flex Zone.
- h. A copy of the applicant's approved City of Livermore business license.

Please submit the entire packet to the Planning Division electronically at planning@livermoreca.gov or in person at 1052 S Livermore Ave, Livermore, CA 94550



General Application

Project Address/Location		APN:	
Project Name		General Plan Designation	Zoning District
Applicant Name		Phone	Fax
Applicant Address		City	State Zip
Applicant E-Mail Address			
Property Owner Name		Phone	Fax
Property Owner address		State	City Zip
Property Owner E-Mail Address			
Representative Name <input type="checkbox"/> Engineer <input type="checkbox"/> Architect <input type="checkbox"/> Other		Phone	Fax
Representative Address		State	Zip
Representative E-Mail Address			
PROJECT INFORMATION			
Existing Use		Proposed Use	
<input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Office <input type="checkbox"/> Vacant		<input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Office <input type="checkbox"/> Vacant	
Parcel size(s)	Existing Floor Area	Existing Foot Print Area	Landscape Sq. Ft.
#of Buildings	Proposed Floor Area	Proposed Footprint Area	#of Parking Spaces
Detailed Project Description <i>(Attach additional pages if necessary):</i>			
OWNER/AGENT STATEMENT			
<p>Property Owner Consent – I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application.</p> <p>The project applicant agrees to defend, indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim, action, or proceeding brought by a third party to attack, set aside, or void the project approval or any permit authorized for the project, including reimbursing the City its attorneys fees and costs incurred in defense of the project.</p> <p>X _____ DATE _____</p>			
<p>The Livermore Development Code allows up to 30 days for the assigned planner to deem an application complete. An application must be deemed complete before proceeding to a hearing or staff level decision. If your project does go to hearing, you will be notified by mail in advance of the hearing date. If you would like to check meeting agendas, please go to our website: http://www.cityoflivermore.net/citygov/clerk/comms/pc/default.asp</p>			
APPLICATION REFERRAL – STAFF USE ONLY			
The attached project plans and application materials are hereby forwarded to your agency for review and comment. Your suggestions and applicable requirements/regulations are needed by the date shown below. Please do not return plan sets.			
Staff Planner:		Application No(s):	
Date Sent:	Please Return By:	Project Review Date:	
<input type="checkbox"/> Building Division	<input type="checkbox"/> Airport Commission	<input type="checkbox"/> Historic Preservation	
<input type="checkbox"/> Engineering Division	<input type="checkbox"/> Redevelopment Agency	<input type="checkbox"/> Public Services Director	
<input type="checkbox"/> Fire Prevention	<input type="checkbox"/> Alameda County Health	<input type="checkbox"/> Alameda County Zone 7	
<input type="checkbox"/> Police Department	<input type="checkbox"/> Alameda County Planning	<input type="checkbox"/> Livermore School District	
<input type="checkbox"/> Water Resources Division	<input type="checkbox"/> Bay Area Air Quality Mgmt District	<input type="checkbox"/> Livermore Sanitation	
<input type="checkbox"/> Other:	<input type="checkbox"/> L.A.V.T.A. (Wheels)	<input type="checkbox"/> A.L.U.C. Form \$250 Fee/ 60 Day	
Referral Response:	<input type="checkbox"/> Comment Attached	<input type="checkbox"/> No Comment	
Name/Agency:		Date:	

