

# SANTA MONICA OUTDOORS PRIVATE OPEN SPACE MANUAL



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# INTRODUCTION

# Introduction

## About the Manual

This manual serves as a user-friendly guide to navigate the requirements for the Outdoor Space program, as laid out in Santa Monica Municipal Code ("SMMC") Section 9.31.199 Outdoor Commercial Uses on Private Property and in the Outdoor Space Program Administrative Regulations. In this manual you will find important instructions, standards, and application information for eligible businesses seeking to apply for an outdoor space permit. Proposed outdoor spaces must comply with the requirements set forth in this manual, SMMC Section 9.31.199, and the Outdoor Space Program Administrative Regulations. Applicants, designers, and contractors should familiarize themselves with the entire manual and refer to it often during the application process. For additional questions, please email the City Planning Division at [311@santamonica.gov](mailto:311@santamonica.gov).

The following documents are referenced in this Manual. Please refer to these for further details on design and operational standards for the Outdoor Space Program.

- [SMMC 9.31.199, Outdoor Commercial Uses on Private Property](#)
- [Outdoor Space Program Administrative Regulations](#)

This manual covers private outdoor spaces that serve eligible businesses located on the same property and does not apply to parklets or sidewalk seating, which create new public space on the public right-of-way and adjacent to the sidewalk. The Santa Monica Parklet Program information can be located [here](#).

### Outdoor Space Program Goals:

1. Support and new and existing local businesses;
2. Promote economic vitality; and
3. Create outdoor spaces that provide additional amenities and services that are compatible with existing land uses.

## What is the Outdoor Space on Privately-Owned Commercial Property Program?

The program allows eligible businesses to apply to expand their business onto private outdoor spaces (e.g., courtyards, parking lots, rooftops) for their patrons, as long as the space is on the same property and supports an existing business.

## How is this different from a Parklet or Sidewalk Dining?

Parklets and sidewalk dining areas are located on the public right-of-way, like the sidewalk or on the street next to a parking meter. This program allows businesses to expand onto private outdoor property, like an on-site surface parking lot or a communal courtyard area.

## Do I operate an eligible business?

A variety of commercial businesses are eligible to participate\* including but not limited to:

- Outdoor dining for restaurants/food-related businesses;
- Fitness;
- Personal services;
- Office; or
- Retail.

\*The outdoor spaces must be associated with a business that already exists on-site and within a commercial structure.

## What is an appropriate location for a Private Outdoor Space?

Outdoor spaces can be located in a variety of areas, including, but not limited to:

- Surface parking lots
- Open courtyard spaces
- Rooftop areas

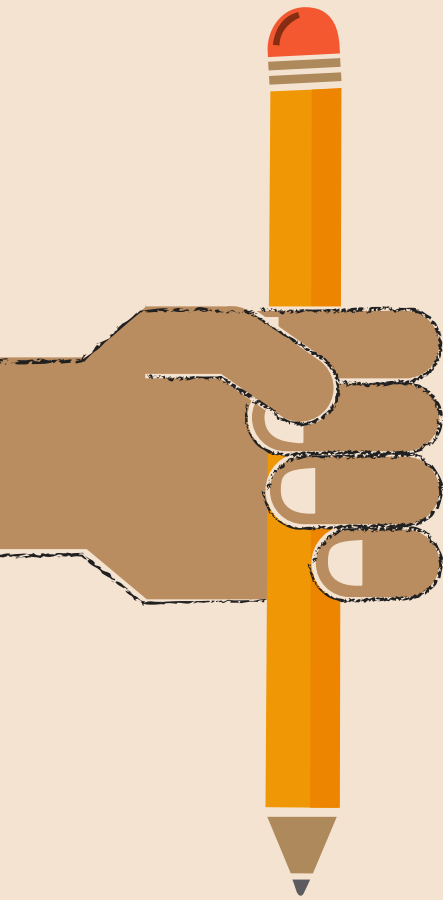
These spaces may be designed with amenity features like permanent shading, lighting, tables and seats, planters, heaters, railings, bollards, provided the appropriate permits are issued.

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# APPLICATION PROCESS

# HOW TO BUILD AN OUTDOOR SPACE!

IN THE CITY OF SANTA MONICA



**01**

## PREPARE & SUBMIT APPLICATION

- Review Program Requirements
- Prepare Site Plan & Floor Plan Drawings
- Submit Outdoor Space Program Application
- Fees are waived for existing Temporary Outdoor Space Program permit holders



**02**

## DESIGN REVIEW & PERMITTING (4-6 WEEKS)

- Review application (City)
- Revise application as needed
- Obtain staff level ARB design approval
- Approve application (City)
- Obtain necessary permits from Building and Safety or the Fire Department, if applicable
- Pay wastewater fees, if applicable



**03**

## CONSTRUCTION

- Begin construction and complete construction work with Building & Safety Inspectors.

# 1. Application Process

## Who can apply?

An eligible business may apply that:

1. Operates within an enclosed building and has received any necessary entitlements from the City to operate; and
2. Is a commercial use that is permitted or conditionally permitted in the district, except for the following businesses that are prohibited and are not considered eligible businesses:
  - Automobile/vehicle sales and service, minor or major;
  - Animal care, sales, and services;
  - Liquor stores.

## Phase 1: Prepare and Submit Application

Before applying, applicants should ensure their proposed outdoor space complies with required site criteria. This section details application materials, including photos, site plan and floor plan drawings, and fees. Here are links to the following applications:

1. [Outdoor Space Permit \(OSP\) Application](#)
2. [Architectural Review Board \(Single-Trade\) Application\\*](#)
3. [Building Permit Application\\*](#)
4. [Fire Permit\\*](#)

Except for existing Temporary Outdoor Space Permit Holders, all new Outdoor Space Program proposals must comply with all standards and regulations set in the [Administrative Regulations](#) and in [SMMC 9.31.199](#).

**\* Architectural Review Board, Building Permit, or Fire Permit** applications may be required depending on if your proposal includes improvements (i.e. permanent canopies, shading devices, railings, lighting, propane or electrical heaters) that warrant design review, building permits, or fire permits

## 1.1 Basic Information

The outdoor space shall be conducted as ancillary space to a legally established commercial use permitted or conditionally permitted and located on the same property within a nonresidential district. Except for those uses specifically prohibited under the Program, permitted uses within the outdoor space shall be regulated by the underlying zoning district.

### 1.1.1 Description of an Outdoor Space

Outdoor spaces may be contained within a defined space surrounded by barriers such as railings, landscape material, or planter boxes to separate people from any vehicular circulation. Outdoor spaces may include permanent shading devices, tables/seats or similar furniture such as heaters, or lighting fixtures. Outdoor spaces are intended to be an inviting, people-oriented space providing functional and aesthetic enhancements to property.

## 1.2 Site Criteria

Before gathering application materials, applicants should check if their proposed outdoor space meets all site criteria required for approval. Outdoor spaces may not disrupt or block any required building ingress or egress access, may not convert/block any required ADA accessible parking spaces, must ensure adequate driveway circulation for available parking spaces, ensure that trash/refuse services to onsite enclosures remain available, etc.

Applicants should utilize the Site Criteria Checklist on the following page to ensure their proposed outdoor space will not adversely impact existing on-site operational conditions.



## Existing Temporary Outdoor Space Permit Holders with Permits Expiring March 30, 2024 (Renewal Applications):

If you received a permit for the Temporary Outdoor Space program during the Pandemic (May 29, 2020 through May 11, 2023), you will not be subject to the requirements in the Administrative Regulations or program requirements pursuant to SMMC 9.31.199, as long as you receive approval by March 31, 2024.

However, your outdoor space must comply with the following:

1. Existing ADA accessible parking spaces shall be maintained as required.
2. Outdoor space must not block or impede any required building egress (exit doors or pathway).
3. Outdoor space must not block or impede any existing trash/refuse service operations provided by the City.
4. Any required building permits for permanent structures or improvements must be obtained (if such permits were not obtained during the Pandemic)
5. Any required fire permits for propane/ electric heaters or temporary/pop-up canopies must be obtained (if such permits were not obtained during the Pandemic)

### 1.2 Site Criteria Checklist:

1.2.1

Must be located on private property.

1.2.2

Common open areas on the property may be converted; parking spaces, courtyards, roof areas, other open space.

1.2.3

Existing ADA accessible parking spaces shall be maintained as required.

1.2.4

Must not block or impede any required building egress doors or pathway.

1.2.5

Must not block or impede any existing trash/refuse service operations provided by the City.

1.2.6

May not be fully enclosed except on a temporary basis due to inclement weather conditions.

1.2.7

Must be setback a minimum of 15 feet from any property line abutting a residential use/residential district.

Businesses may propose private outdoor spaces in a variety of locations and designs, as long as they comply with the site criteria described above. Below are some examples of how outdoor spaces have been implemented around the City.



Restaurant seating on surface parking.



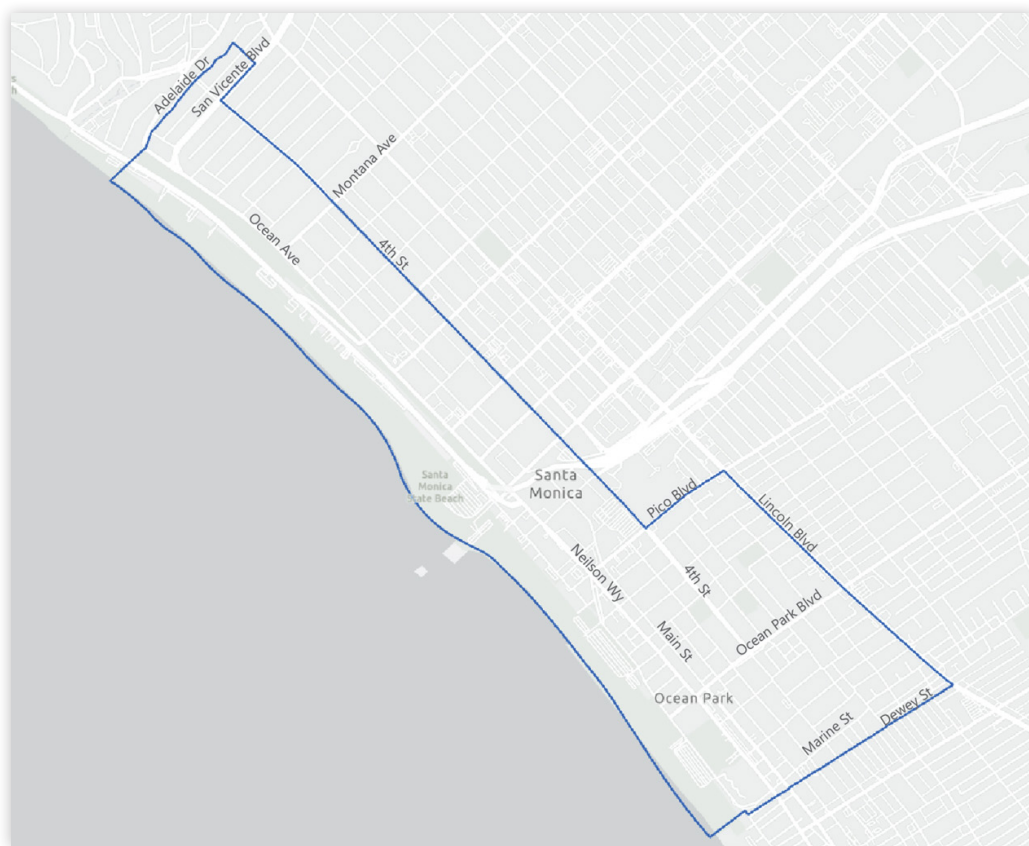
Salon services on surface parking.



Restaurant seating in a courtyard.

### 1.3 Coastal Zone

If the subject property is located within the Coastal Zone (which encompasses most streets several blocks inland from the coast), applicants are subject to Coastal Commission review and approval. City staff will notify applicants if this permit is required and will collaborate on the permit procurement process.



City of Santa Monica Coastal Zone Boundary

## 1.4 Site Photos

Provide site photos of the business and the proposed location on-site for the private outdoor space area.

## 1.5 Site Plan & Drawings

The application for an outdoor space must include a detailed site plan of the proposed space and any existing improvements. Use the checklists below to make sure your site plan shows everything needed to complete the application review,

### 1.5.1 Dimensioned Site Plan Checklist:

**1.5.1.1** Property lines, building footprint of all structures on property.

**1.5.1.2** Existing parking areas on property, including location and dimensions of all existing parking spaces, drive aisles, and any loading spaces.

**1.5.1.3** Proposed parking areas on property, numerating the reduction in parking spaces to accommodate the outdoor area, any proposed re-striping or removed curb cuts, or changes to vehicular circulation.

**1.5.1.4** Location of proposed outdoor space relative to existing site conditions (i.e. buildings, perimeter walls, etc.), setback dimensions from front, rear and side property lines.

**1.5.1.5** Adjacent streets, alleys, sidewalks with public right-of-way.

**1.5.1.6** Driveway curb cuts, aprons, and approaches, fences, gates, walls.

**1.5.1.7** Location and dimensions of existing trash/recycling areas.

### 1.5.2 Dimensioned Existing Interior Floor Plans and Proposed Outdoor Space :

**1.5.2.1** Existing floor plans of business tenant space.

**1.5.2.2** Proposed outdoor use area indicating square feet, layout including any seating arrangements, railings/barriers, lighting, canopies, setbacks and clearances.

**1.5.2.3** Proposed permanent fixtures affixed to building or freestanding including shading devices, lighting, and any decks, etc.

**1.5.2.4** Proposed materials including pavers, flooring, railings, canopies, and removable furniture including umbrellas, canopies (provide details/cut sheets).

**1.5.2.5** Proposed use of heating devices including electric or propane heaters (Fire Permits Required)

### 1.5.3 Additional Requirements for Restaurants/Food Services:

**1.5.3.1** Provide seating/table arrangements and number each individual seat in the existing indoor seating area and proposed outdoor space.

**1.5.3.2** If no additional seats will be added to the restaurant based on your pre-pandemic total seating count, please confirm by adding a note on the plans: "No additional seats will be added to the restaurant based on pre-pandemic total seat count." If no new seats are added, wastewater fees will not apply.

**1.5.3.3** If new additional seats will be added to the restaurant thereby increasing your pre-pandemic total seating count, please show how many new seats will be added. If new seats are added, wastewater fees will apply.

## 1.6 Fees

Applicants must pay all applicable fees as outlined in Table 1, unless the applicant is a temporary permit holder seeking to renew. In that case, most fees are waived.

FEE NAME/TASKS	FEE
<b>Application Fees</b>	
Outdoor Space Permit Application	\$475.78 (\$478.60 in Coastal Zone)
Outdoor Space Permit Application Renewal for existing Temporary Outdoor Space (pandemic) Permit Holders	Waived
Architectural Review Board (Administrative Review, Single Trade)	Waived
<b>Permit Fees</b>	
Building Permits (for any outdoor space improvements requiring a building Permit)	Contact <a href="#">Building and Safety</a> for current fee schedule.
Fire Permit (for use of any propane heaters)	\$358.85/Annually
<b>Waste Water Capital Facility Fee</b>	
Restaurant Sit Down (Full Service) (One Time)	\$1,358.49 per seat
Restaurant Sit Down (Fast/Casual) (One Time)	\$1,132.08 per seat

## Phase 2: Program & Design Review

### 1.7 Submit a Complete Application

Applicants will be notified within 30 days on whether their application has been deemed complete (i.e. the application includes all necessary application materials to start the compliance review process). Thereafter, applicants are responsible for resolving any concerns or issues identified by City staff during the review process. Applicants within the Coastal Zone will be instructed to reach out to the California Coastal Commission's office to apply for any State permits required.

### 1.8 Design Review of Proposed Materials

Please note that an Architectural Review Board (ARB) application may be required if your proposal includes physical improvements as part of the outdoor space. This design review will be reviewed and approved administratively by staff concurrently with the OSP Application and will not require a public hearing by the ARB. Please note that additional details may be requested by City Staff to complete this review.

### 1.9 Code Compliance Review

Your application will be reviewed by City Staff for compliance with the Outdoor Space Program requirements. Any required ARB application will be reviewed and approved by staff concurrently with the OSP application.

### 1.10 Obtain Necessary Permits

Once the OSP and ARB applications are approved, the applicant is responsible for obtaining any building permits or fire permits that may be required for the proposed outdoor space improvements. The applicant is also responsible for paying any applicable Wastewater Facility Fees applicable to restaurants adding new seats as part of the Outdoor Space Permit at the time of any building permit review/prior to building permit issuance.



Outdoor Space adjacent to a surface parking lot and access aisle.

## Phase 3: Build Your Project!

Once your outdoor space is approved and necessary permits have been pulled you are ready to start building your outdoor space!

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# DESIGN AND OPERATIONAL STANDARDS

# 2. Design and Operational Standards

## Overview

The Outdoor Space Program Standards ensure safety and attractiveness of outdoor spaces throughout the City. New outdoor space applicants shall operate in compliance with all standards and regulations set in the [Administrative Regulations](#) and in [SMMC 9.31.199](#). Renewal applicants are not subject to new standards but are still required to comply with ADA, ABC, refuse, mobility, and fire requirements listed on page 9 above.

While this manual highlights program requirements set forth in both the Administrative Regulations and Outdoor Space Program requirements (SMMC 9.31.199), it is recommended that applicants review the complete set of requirements using the links above.

## Administrative Regulations and Program Standards

### 2.1 Permitted Location

Outdoor space shall be located on the same parcel or a contiguous adjacent parcel under common ownership, and limited to the following locations:

1. Common open areas on the subject property including but not limited to courtyards, roof areas, and surface parking lots.
2. If located within a surface parking lot, a single contiguous outdoor space is proposed for each eligible business (may not be divided into multiple detached spaces).
3. If located on a parcel adjacent to a residential use, the outdoor space shall be setback a minimum of 15 feet from the property line abutting the adjacent residential use.

### 2.2 Alcohol Service

Hours of operation of the permitted space shall not exceed the hours of operation of the associated eligible business, subject to limitations on alcohol sales set forth in all applicable permits, licenses, and regulations. If no applicable permit, license or regulation states hours for operation of the outdoor space, the following times shall apply:

1. All eating and drinking establishments: hours of operation shall be limited to 8:00 a.m. to 11:00 p.m.
2. Personal services, physical training: hours of operation shall be limited to 7:00 a.m. to 7:00 p.m.

### 2.3 Hours of Operation

The outdoor space shall not exceed the hours of operation of the associated eligible business, except that the following uses are restricted to the following operating hours:

1. Outdoor spaces used for Restaurants/Food-Serving uses, Personal Services, and Physical Training shall be limited to the following hours, unless otherwise limited by an existing permit, license, or regulation (Conditional Use Permit, Alcohol Exemption, or Alcohol Determination):
  - a. All Eating and Drinking Establishments: 8:00 a.m. to 11:00 p.m.
  - b. Personal Services, Physical Training: 7:00 a.m. to 7:00 p.m.
  - c. Santa Monica Pier businesses are exempt from these operational hours.

### 2.4 Accessibility

1. The outdoor space including any movable furnishings, barriers, shading devices, heaters, etc. shall not block any required exit/egress from the building and a minimum 44-inch wide exit path is required to be maintained.
2. Any outdoor space enclosed by railings or barriers shall be accessible (ingress/egress) from the outside of the building.
3. The outdoor space shall be kept clear of litter at all times and must be cleaned (swept and mopped) with all litter removed each day upon closing.

## 2.5 Parking and Circulation

Existing on-site parking spaces may be converted and used as outdoor space.

1. Outdoor space established by conversion of parking areas shall be sufficiently protected from vehicle intrusion; installation of large planters or other appropriate barrier shall be provided.
2. No required accessible parking spaces (ADA spaces), access aisle, or path of travel shall be converted to outdoor space.
3. Outdoor spaces shall not be placed in a location that requires staff or customers to cross a public alley unless it can be demonstrated that pedestrian access across the alley can occur in a safe manner:
  - a. Implementation of traffic control measures including but not limited to establishing a dedicated pedestrian crosswalk clearly defined by physical measures on both sides of the crosswalk such as the use of crosswalk signs, truncated dome mats, bollards, planter boxes, etc. subject to Mobility Division approval.
  - b. Applicant shall prepare a business operations and circulation plan that ensures the safe use and circulation of the dedicated crosswalk by staff and patrons.
  - c. The alley shall be of standard size (20' in width) or may be a dead-end alley, subject to protective measures as necessary.
  - d. Existing drive aisles, curb cuts, and driveways may not be converted to accommodate a permitted outdoor space and shall remain in compliance with [SMMC 9.28.120](#).
4. Existing electric charging stations/spaces proposed to be converted shall be relocated on-site when parking is retained as part of the project.
5. Existing bicycle parking proposed to be converted shall be relocated on-site in compliance with [SMMC 9.28.140](#).

6. Existing loading areas and access to loading areas shall be maintained in compliance with [SMMC 9.28.080](#). Where loading areas are reconfigured or relocated to accommodate a proposed permitted outdoor space, such revised loading spaces shall be subject to Mobility review and approval.

## 2.6 Refuse and Recycling Enclosures

1. Existing refuse and recycling areas or enclosures for the property and its operation shall be maintained or replaced in compliance with [SMMC 9.21.130](#).
2. Outdoor spaces may not block or cause any obstruction that would restrict the use of on-site trash enclosures or impede refuse service vehicles from accessing these areas through the surface parking lot.

## 2.7 Permit Requirements

Applicant shall obtain any required building permits for any construction in the permitted outdoor space utilized for outdoor eligible business activities, including, but not limited to:

1. any building over 120 square feet;
2. any building taller than 14 feet in height;
3. any detached deck or platform taller than 30 inches in height;
4. any alteration of electric wiring, and
5. any plumbing or mechanical connections. Additionally, any structures requiring permanent footings or attachments including railings, barriers, enclosures, freestanding or attached shade structures or canopies, and lighting may be subject to required building permits.



## 2.8 Platform and Deck Requirements

1. Decks must be designed and constructed to support 100 lb./sq. ft. live uniform load.
2. Decks must have a non-slippery surface. Loose material, such as sand or gravel, is not allowed as a deck surface.
3. To ensure drainage, any openings at either end of the deck shall be covered with screens to prevent debris buildup beneath the deck. The maximum gap between decking and planks is ½ an inch.
4. Any vertical post attached to the decking shall not exceed 7 feet in height and shall not be placed closer than 6 feet to another vertical post. No other vertical member attached to the decking (e.g., guards, barriers, Plexiglas partitions) shall exceed 7 feet in height.
5. Compliance with Americans with Disabilities Act 2010 Standards accessibility requirements.

## 2.9 Barriers

Barriers are encouraged to define the parameters of the outdoor space and provide separation from vehicles circulating through the shared surface parking lot. Barriers can be made of, but are not limited to, railings, planter boxes, and fencing. Barriers shall comply with the following:

1. Barriers must be stable and sturdy enough not to fall over or be pushed over.
2. Barriers should have a minimum height of 36 inches.
3. Barriers fully enclosing an outdoor space against a building must provide an opening for fire egress.

## 2.10 Outdoor Space Coverings and Shading Devices

1. Outdoor space coverings or shading devices must be permanent in nature and may include, but are not limited to, the following:
  - a. **Movable Umbrellas:** Umbrellas must be placed at least 5 feet away from propane heaters.
  - a. **Fabric Covers:** Overhead fabric covers or sunshades made of light weight, perforated material that is breathable to allow air flow.
  - b. **Trellis Structures:** An open framework of intersecting rafters made of wood, faux wood, or metal. If implemented, a trellis must be designed and built to adequate structural integrity to ensure public safety and must be certified by a professional engineer or licensed architect.
  - c. **Prefabricated Trellis Structures:** A trellis that is prefabricated may not require certification from a professional engineer or licensed architect if the submittal is accompanied by specifications that clearly show how the trellis members are connected along with an attachment that details how the trellises vertical members are attached to decking surface.
2. Structural coverings or shading devices that require a building permit shall apply for and obtain a building permit prior to installation.
3. All materials must be flame-retardant in accordance with the provisions set forth in California Code of Regulations, Title 19, Section 310.
4. Temporary solid tents such as E-Z up canopies or similar materials are not allowed, except for those permitted on a seasonal basis (see 2.11, Temporary Seasonal Tents and Canopies).

## 2.11 Temporary Seasonal Tents and Canopies

1. Applicants may utilize a temporary canopy structure on a seasonal basis (i.e. rain season) within the permitted outdoor space, not to exceed a period of six (6) months at a time (generally between October through April) so long as there is compliance with the following size and location requirements provided in the [Administrative Regulations](#).

## 2.12 Signage

1. An eligible business may place a single non-permanent, nonelectric sign no taller than 42" and no larger than 10 square feet in size on any outside barrier of the outdoor space. The sign can only contain the eligible business name and a menu of items/services. Outdoor spaces may not contain any advertising, marketing, or promotional signage or materials.

## 2.13 Noise

1. All forms of speaker amplification, televisions or similar screen projectors are prohibited within the outdoor space. All outdoor space operations are required to comply with [SMMC Chapter 4.12 Noise](#).

## 2.14 Lighting

1. Table lamps using liquid fuel, candles, or any fixtures other than a propane heater using an open flame are not permitted.
2. Decorative lighting plugged into a legal outlet is permitted.

## 2.15 Heaters

1. Propane or electric heaters may be utilized in the permitted outdoor space so long as the operator complies with the following requirements:
  - a. the operator has an existing or obtains a propane heater permit from the Santa Monica Fire Department;
  - b. the operator complies with the Santa Monica Fire Department's Fire Prevention Policy Number 1-9 on Portable Propane Heaters;
  - c. the operator secures or removes the propane heater(s) every day upon closing of the business;
  - d. the operator does not place a propane or electric heater within 6 feet of a public tree; and
  - e. the operator does not place a propane or electric heater within 5 feet of any other combustible material, including an umbrella.

## 2.16 Propane Heater Additional Requirements

1. Propane heaters require an annual permit from the Fire Department. If storing more than one tank onsite, a separate Santa Monica Fire Department (SMFD) permit is required.
2. Only one additional propane tank can be stored on-site. If storing more than one tank onsite, a separate Santa Monica Fire Department (SMFD) permit is required.
3. Propane tanks cannot be stored inside or under coverings. They must be stored in an upright fixed position to prevent damage and potential leaks.
4. Propane heaters may not be placed underneath overhead covers, awnings, trellis', inside buildings or tents and they must have 5-foot clearance from any flammable/combustible materials. A permit for use of propane heaters will not be issued if a trellis or parklet covering, unless retractable, is constructed.
5. Propane heaters must maintain 6-foot clearance, both vertically and horizontally, from any street tree.

6. A final on-site Santa Monica Fire Department permit inspection will be conducted to ensure proper spacing of propane heaters from combustibles and emergency access/egress.

## 2.17 Electric Heater Additional Requirements

1. Electric heaters may be used underneath umbrellas, and other approved overhead covers such as a trellis or parklet covering.
2. Electric heaters must be used in accordance with their listings. A product's certification can be verified by reviewing the label adhered to the product.
3. Electric heaters must be plugged into a properly installed ground fault circuit interrupter (GFCI). No extension cords shall be permitted for electric heaters.
4. Electric heaters must be situated at least 1 foot from parklet walls and 3 feet from combustible materials.

## 2.18 Electrical Cords and Cables

1. Battery operated or cordless lighting such as solar powered lights may be used and is preferred. An overhead electrical power connection to a ground fault circuit interrupter (GFCI) is allowed without the requirement of a permit from Building and Safety.
2. Cords, cables or other related equipment may not be attached or connected to City owned property, including trees, under any circumstance.
3. Cords and cables shall be run overhead and must have an 8-foot clearance.
4. Power shall be obtained from a private source and may not connect to any City property.
5. Exterior GFCI outlets must include a weatherproof cover that protects the outlet when in use and not in use.
6. Cords and cables cannot be placed across the ground, even with tape or a cover.
7. Electrical specifications must be noted on

plans, must be rated for outdoor use, and for decorative lighting, may not exceed 40 watts.

8. Lighting within the outdoor space may only be illuminated during business hours and should have an automatic control or timer for shut off when daylight is available or during non-business hours.
9. Lighting may not flash, create a glare for drivers, or illuminate into neighboring properties or parklets.
10. Power cords between the building and parklet shall be limited to 1 cord at each end of entire parklet space. These "flyover" cords shall be limited to standard cords plugged directly into an electrical GFCI outlet.
11. No extension cords shall be permitted for fixed lighting or heaters per Article 400.10 of the California Electrical Code.
12. For private outdoor space operators interested in hardwired connections from the building power supply (i.e., junction box, electrical panel, outlet, etc.), a single-trade permit is required from the Building and Safety Division for this installation.

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# APPENDICES

**APPENDIX A**  
SMMC 9.31.199  
OUTDOOR COMMERCIAL  
USES ON PRIVATE  
PROPERTY

### § 9.31.199. Outdoor Commercial Uses on Private Property.

A. **Purpose.** The purpose of this Section is to allow existing and new businesses to expand outdoor commercial activity using on-site surface parking lots or common open areas located on private property and to ensure that such uses do not adversely impact adjacent properties and surrounding neighborhoods consistent with the goals, objectives, and policies of the General Plan. Eligible businesses proposing outdoor space shall be designed, located, and operated in accordance with the requirements of this Section.

B. **Definitions.** The definitions in Santa Monica Municipal Code Section 9.52.020 apply to the terms and phrases used in this Chapter, unless otherwise specified herein. In addition, the following terms and phrases have the following meanings when used in this section:

"Eligible business" means: (1) a business that operates out of a physical location in the City and has received any necessary entitlements from the City to operate; (2) the use of the physical location by the business is a commercial use classification that is permitted or conditionally permitted in the district, other than those uses specifically prohibited under this Section, as those terms are defined by Santa Monica Municipal Code Section 9.51.030; and (3) an expansion of an existing commercial use located on the same parcel located in a nonresidential or Oceanfront District, or adjacent residentially zoned parcel.

"Outdoor space" is inclusive of all or a portion of a common area, such as a surface parking lot, courtyard, plaza, roof deck, or other private open space area located on private property.

C. **Applicability.** Except as specifically identified, the provisions of this Section shall apply to eligible businesses proposing new outdoor space areas and to existing private outdoor use areas that are expanded or enlarged by more than 10% in outdoor space, in accordance with the requirements of this Section.

1. **Santa Monica Pier.** An eligible business on the Santa Monica Pier shall be subject to the requirements of this Section, except such business shall be exempt from the following requirements:

- a. Maximum size;
- b. Location;
- c. Hours of operation;
- d. Conversion of parking spaces.

D. **Procedure.** An outdoor space permit shall be subject to a Zoning Conformance Review, pursuant to the procedures of Chapter 9.38, Zoning Conformance Review and Permit, or subject to application review using a form designated by the Director to ensure consistency with all of the standards of this Section unless such review has been conducted in conjunction with discretionary review of the associated commercial use. Any improvements associated with the outdoor space shall be

subject to Building and Safety and the Fire Department review and shall be subject to administrative Architectural Design Review in accordance with Santa Monica Municipal Code Chapter 9.55.

- E. **Permitted Uses.** The outdoor space shall be conducted as an accessory use to a legally established commercial use permitted or conditionally permitted within a nonresidential district or the Oceanfront District. Except for those uses specifically prohibited under this Section, permitted uses within the outdoor space shall be regulated by the underlying zoning district.
- F. **Expansion of Legal Nonconforming Uses.** Notwithstanding anything to the contrary in Section 9.27.050, Legal Nonconforming Uses, any proposed outdoor space by an eligible business considered a legal nonconforming use shall not be considered an expansion in area and may be authorized in accordance with this Section.
- G. **Prohibited Uses.** The following uses are prohibited and not considered eligible businesses:
  - 1. Automobile/vehicle sales and service, minor or major;
  - 2. Animal care, sales, and services;
  - 3. Liquor stores.
- H. **Accessory Use.** Outdoor space shall be conducted as an accessory use to an eligible business that is located on the same parcel or a contiguous adjacent parcel.
- I. **Service and Sale of Alcoholic Beverages.** Alcoholic beverages may be sold and served in outdoor spaces by restaurants that: (1) have obtained and are operating under a license to sell alcoholic beverages from Alcoholic Beverage Control (ABC); and (2) have obtained and are operating under a Conditional Use Permit or Alcohol Exemption issued by the City, or are operating as an existing alcohol outlet without a Conditional Use Permit pursuant to Section 9.31.040 of the Santa Monica Municipal Code. Sales shall be conducted in accordance with all requirements and conditions set forth in such licenses and permits, including those required by the ABC. Permitted outdoor spaces used by restaurants are for sit-down food and beverage service only; no stand-up service is permitted.
- J. **Hours of Operation.** Hours of operation of the permitted space shall not exceed the hours of operation of the associated eligible business, subject to limitations on alcohol sales set forth in all applicable permits, licenses, and regulations. If no applicable permit, license or regulation states hours for operation of the outdoor space, the following times shall apply:
  - 1. All eating and drinking establishments: hours of operation shall be limited to 8:00 a.m. to 11:00 p.m.
  - 2. Personal services, physical training: hours of operation shall be limited to 7:00 a.m. to 7:00 p.m.

- K. Exemptions: Floor Area, Floor Area Ratio (FAR), and Parking Requirements.** Outdoor space shall be excluded from the following:
1. Floor area and floor area ratio (FAR) calculations.
  2. Minimum parking requirements.
- L. Size.** Outdoor spaces shall have no size limit for each eligible business provided that the outdoor space complies with Building Code, Fire Code, and objective transportation standards established by the Mobility Division.
- M. Location.** Outdoor spaces shall be located on the same parcel or on a contiguous adjacent parcel under common ownership, and limited to the following locations:
1. Surface parking lots and common open areas on the subject property, including, but not limited to, courtyards and roof areas.
  2. If located on a parcel adjacent to a residential use, the outdoor space shall be set back a minimum of 15 feet from the property line abutting the adjacent residential use.
  3. Outdoor spaces may be located on existing surface parking lots supporting on-site commercial uses with residential zoning, provided: (a) the surface parking lot serves the subject commercial property under common ownership; and (b) the proposed outdoor space is ancillary to an eligible business.
  4. A single contiguous outdoor space is allowed for each eligible business when located within a parking lot.
- N. Conversion of Existing Parking Areas.** Any permitted outdoor space by conversion of existing parking spaces or areas shall comply with the requirements or conditions set forth in the administrative regulations issued under this Section, including the following:
1. No required accessible parking spaces (ADA parking spaces) or related access aisle or path of travel shall be converted or removed. Vehicular access to all required ADA parking spaces shall be maintained.
  2. Except as provided in subsection (N)(1), there shall be no limit to the number of existing parking spaces that can be converted pursuant to this Section provided that the outdoor space complies with Building Code, Fire Code, and objective transportation standards established by the City's Mobility Division.
- O. Design Standards.** The design of any outdoor space improvements, including, but not limited to, barriers, railings, shade structures, furnishings, lighting fixtures, and signage shall comply with the requirements or conditions set forth in the administrative regulations issued under this Section.
- P. Accessibility.** Outdoor space shall comply with accessibility requirements or conditions set forth in the administrative regulations issued under this Section.



- Q. **Structures and Decks.** Construction of any structures or decks shall comply with requirements or conditions set forth in the administrative regulations issued under this Section.
- R. **Temporary Tents and Canopies.** Temporary tents, canopies, or similar enclosures shall not be utilized as permanent shelter in conjunction with outdoor spaces. Temporary use of tents or canopies may be permitted subject to required permits issued by the Fire Department only on a temporary seasonal basis and shall comply with the requirements or conditions set forth in the administrative regulations issued under this Section.
- S. **Propane and Electric Heaters.** Propane or electric heaters may be permitted in support of outdoor spaces, subject to Fire Department permit requirements as set forth in the administrative regulations issued under this Section.
- T. **Signage.** Notwithstanding anything to the contrary in Chapter 9.61 of the Santa Monica Municipal Code, an eligible business may place a single non-permanent, non-electric sign no taller than 42 inches and no larger than 10 square feet in size on any outside barrier of the outdoor space. The sign can only contain the eligible business name and a menu. Outdoor spaces may not contain any advertising, marketing, or promotional signage or materials.
- U. **Noise.** All forms of speaker amplification, televisions or similar screen projectors are prohibited. Outdoor space operations shall comply with Chapter 4.12, Noise.
- V. **Administrative Regulations.**
1. The Director may adopt administrative regulations to implement the provisions of this Section, including, but not limited to, design and accessibility specification standards for outdoor spaces, application procedures, and other permit conditions and requirements.
  2. A permittee shall comply with any other permit requirements or conditions set forth in the administrative regulations issued under this Section.
- W. **Outdoor Space Permit Renewals.** An eligible business issued a Temporary Use of Private Outdoor Space Permit by the City pursuant to emergency orders (Eighteenth Supplemental Order) and subsequent Emergency Interim Zoning Ordinances between May 29, 2020 and the adoption of this Section 9.31.199 shall be required to renew their existing permit prior to March 31, 2024 in accordance with Section 9.31.199(D) to retain their permitted outdoor space. Any applications subsequent to this date shall be subject to all requirements of this Section.

(Added by Ord. No. 2741CCS § 6, adopted April 11, 2023 )

# **APPENDIX B**

## ADMINISTRATIVE REGULATIONS



City of  
**Santa  
Monica**

SANTA MONICA OUTDOOR  
COMMERCIAL USES ON PRIVATE  
PROPERTY: ADMINISTRATIVE  
REGULATIONS

(OUTDOOR SPACE PROGRAM)

May 11, 2023

- I. **Scope.** These administrative regulations (“Regulations”) are established pursuant to Santa Monica Municipal Code (“SMMC”) Section 9.31.199(V), Administrative Regulations.
  - A. The Director is authorized to issue Zoning Conformance Review Permits for Outdoor Commercial Uses on Private Property in accordance with SMMC Section 9.31.199 via a Zoning Conformance Review and require the submission of an application and supporting materials that shall include: site plans consisting of existing conditions and proposed outdoor space areas, interior floor plans, outdoor space floor plans, elevation drawings, and additional information deemed by the Director to be necessary or relevant, including, but not limited to, permanent fixtures, movable furniture, building access and circulation, parking lot circulation or supporting data to ensure protection of public health, welfare, and safety of the City.
  - B. The Director retains discretion to deny an application for an outdoor commercial use on private property (Zoning Conformance Review) upon a determination that the proposed outdoor commercial use is not in compliance with applicable provisions of SMMC Chapter 9.31.199 zoning regulations, these Administrative Regulations, or any other applicable law, including, but not limited to, Articles VIII and IX of the Santa Monica Municipal Code.
- II. **Definitions.** The definitions in SMMC Section 9.31.199 and 9.52.020 apply to the terms and phrases used in these Regulations. In addition, for purposes of these Regulations, the following terms have the following meanings:
  - A. “Permitted Outdoor Space” means the outdoor space that is the subject of a Zoning Conformance Review Permit for commercial use of private outdoor space issued to an eligible business as defined pursuant to SMMC Section 9.31.199(B)(1). Permitted outdoor spaces shall be used as accessory space to the eligible business primarily operating within an enclosed building located on the subject property.
  - B. “Temporary Furnishings” means the furnishings placed by the eligible business in the permitted space. Temporary furnishings may include, but are not limited to, movable tables, seats, floor coverings, bookcases, exercise equipment, garment racks, displays of merchandise, planter boxes, umbrellas or canopies that are secured and maintain a minimum 7-foot height clearance for sidewalk or pedestrian passage, electric cordless lighting, and other temporary décor.
- III. **Terms and Conditions for Outdoor Use of Private Property.** An eligible business that has obtained a permit for commercial outdoor use of private property shall comply with the following terms and conditions:
  - A. The eligible business, if not the property owner, shall obtain prior written consent from the property owner of the permitted outdoor space and

furnish such consent to the City upon request.

- B. A copy of the permit shall be displayed by the eligible business during business hours and shall include contact information for any public inquiries or concerns related to the outdoor space operations.
- C. An eligible business shall comply with all applicable Federal, State, and City laws, rules, and regulations, including, but not limited to, the requirement to have a current business license, the noise restrictions in SMMC Chapter 4.12, the protection of public trees in compliance with SMMC Chapter 7.40, compliance with the Americans with Disabilities Act (“ADA”), and compliance with any public health orders issued by the State or County of Los Angeles.
- D. All merchandise or services displayed in the permitted outdoor space shall be of the same types ordinarily sold indoors at the associated eligible business.

#### Accessibility

- E. Temporary furnishings, signs, propane heaters, and temporary or permanent barriers used in the permitted outdoor space shall not block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way. A minimum of a 44-inch wide exit path is required to be maintained from each legal exit from the building to the public right of way.
- F. Any permitted outdoor space enclosed by railings or barriers, including those outdoor spaces with direct access from inside the building, shall be accessible (ingress and/or egress) from the outside of the building. In no event may an enclosed outdoor space be accessible by only a single form of ingress/egress from the interior of the building.
- G. The eligible business shall provide and maintain adequate pedestrian access on the adjacent sidewalk, which is considered to be no less than five (5) feet of unobstructed access.
- H. The eligible business must not attach any object, including a temporary or permanent barrier, canopy, lighting, or other temporary furnishing, to a public tree.
- I. The permitted outdoor space shall be kept clear of litter at all times, shall not contain any visible trash containers, and must be cleaned (swept and mopped) with all litter removed each day upon closing of the permitted outdoor space.

#### Parking and Circulation

- J. No hazardous visual obstruction shall be permitted per SMMC Section 9.21.180.

- K. Parking that is altered must comply with City Parking standards and SMMC 9.28.120.
- L. Parking areas shall not be altered in a manner that would require backing out onto the City's designated no backout streets.
- M. Permitted outdoor spaces shall not be placed in a location that requires staff or customers to cross a public alley unless it can be demonstrated that pedestrian access across the alley can occur in a safe manner. Such proposal shall include implementation of traffic control measures including but not limited to establishing a dedicated pedestrian crosswalk clearly defined by physical measures on both sides of the crosswalk such as the use of crosswalk signs, truncated dome mats, bollards, planter boxes, etc. subject to Mobility approval. Additionally, the applicant shall prepare a business operations and circulation plan that ensures the safe use and circulation of the dedicated crosswalk by staff and patrons. The alley shall be of standard size (20' in width) or may be a dead-end alley, subject to protective measures as necessary. Existing drive aisles, curb cuts, and driveways may not be converted to accommodate a permitted outdoor space and shall remain in compliance with SMMC Section 9.28.120.
- N. Existing electric charging stations/spaces as required by law proposed to be converted to a permitted outdoor space shall be relocated on-site when parking is retained as part of the project.
- O. Existing bicycle parking converted to accommodate a permitted outdoor space shall be relocated on-site in compliance with SMMC Section 9.28.140.
- P. Existing loading areas and access to loading areas shall be maintained in compliance with SMMC Section 9.28.080. Where loading areas are reconfigured or relocated to accommodate a proposed permitted outdoor space, such revised loading spaces shall be subject to Mobility review and approval.
- Q. Existing refuse and recycling areas or enclosures for the property and its operation shall be maintained or replaced in compliance with SMMC Section 9.21.130. In no event shall any such permitted outdoor space block or cause any obstruction that would prevent the use of the refuse and recycling areas or impede refuse service vehicles from accessing these areas through the surface parking lot.
- R. Existing parking dedicated to off-site uses previously approved by the City through an Off-Street Parking Agreement or Parking Variance shall be maintained unless it can be demonstrated and determined by the City that such parking is no longer required. The subject property owner requesting to convert these required parking spaces shall coordinate with the off-site property owner associated with such parking agreement prior to any

requests made to the City.

- S. Any permitted outdoor space established by conversion of parking areas or other permitted outdoor space where there may be vehicle intrusion shall provide for safe separation of the outdoor eligible business activity area from any remaining parking areas, such as by the installation of large planters or other appropriate barrier, so that the outdoor eligible business activity space is sufficiently protected from vehicle intrusion. No required accessible parking spaces (ADA spaces), access aisle, or path of travel shall be converted to permitted outdoor space. In no event shall any converted permitted outdoor space block or cause any obstruction that would prevent parked vehicles from exiting the parking area. In no event shall any barrier used to create safe separation block any portion of the full width of any legal exit from the building or any exit path from such legal exit to the public right of way.

### Structures and Decks

- T. An eligible business shall obtain any required building permits for any construction in the permitted outdoor space utilized for outdoor eligible business activities, including, but not limited to, (1) any building over 120 square feet; (2) any building taller than 14 feet in height; (3) any detached deck or platform taller than 30 inches in height; (4) any alteration of electric wiring, and (5) any plumbing or mechanical connections. Additionally, any structures requiring permanent footings or attachments including railings, barriers, enclosures, freestanding or attached shade structures or canopies, and lighting may be subject to required building permits.
- U. An eligible business may construct a detached deck in the permitted outdoor space without obtaining a building permit so long as any such deck complies with the following design and safety specifications:
  - a. The deck shall have a non-slippery surface; loose material (such as sand or gravel) cannot be used in the parklet.
  - b. The deck shall be designed and constructed to support 100 lb per square feet live uniform load.
  - c. To ensure drainage, any openings at either end of the deck shall be covered with screens to prevent debris buildup beneath the deck.
  - d. The maximum gap in between decking and planks is ½ an inch.
  - e. Any vertical post attached to the decking shall not exceed 7 feet in height and shall not be placed closer than 6 feet to another vertical post. No other vertical member attached to the decking (e.g., guards, barriers, Plexiglas partitions) shall exceed 7 feet in height.
  - f. The deck shall not have a roof, trellis, or other overhead shelter other than an umbrella or permanent canopy, unless otherwise

authorized by subsection III(X).

- g. Compliance with Americans with Disabilities Act 2010 Standards accessibility requirements.

#### Design Standards: Exterior Modifications

- V. The design of any permitted outdoor space improvements including but not limited to barriers, railings, shade structures or canopies, temporary furnishings as defined in these Administrative Regulations, lighting fixtures, and signage shall consist of quality materials, subject to administrative Architectural Design Review and approval.
- W. If applicable, the eligible business shall also obtain any required approval from the Landmarks Commission, or the Secretary to the Commission if permitted under Resolution Number 14-002 (LCS), for any improvements associated with an historically designated construction in the permitted outdoor space.
- X. Temporary tents, canopies, or other similar enclosures shall not be utilized as permanent shelter in conjunction with permitted outdoor spaces, and may only be permitted on a temporary seasonal basis due to inclement weather (rain seasons).

#### Temporary Seasonal Tents and Canopies

- Y. An eligible business may utilize a temporary canopy structure on a seasonal basis (i.e. rain season) within the permitted outdoor space, not to exceed a period of six (6) months at a time (generally between October through April) so long as there is compliance with the following conditions:
  - a. A canopy with all sides open shall (a) not exceed 700 square feet in the aggregate, (b) be sufficiently secured to meet wind load requirements, (c) if used in connection with an electric heater, provide at least 3 feet of clearance from the heater to top of the canopy or any other combustible material, (d) not be used in close proximity of a propane heater, unless the propane heater is placed outside of and at least 5 feet away from the canopy; and (e) not be placed within 12 feet of any building. Multiple canopies placed side by side will be considered a single canopy for purposes of calculating the 700 square feet in the aggregate, unless each canopy is placed at least 12 feet apart from one another.
  - b. A canopy with one or more sides down shall (a) not exceed 400 square feet in the aggregate, (b) be sufficiently secured to meet wind load requirements, (c) if used in connection with an electric heater, provide at least 3 feet of clearance from the electric heater to the top or sidewall of the canopy or any other combustible material, (d) not be used in close proximity to a propane heater,



unless the propane heater is placed outside of and at least 5 feet away from the canopy or a duct-style propane heater is utilized and is placed outside of and at least 5 feet away from the canopy, and (e) not be placed within 12 feet of any building. Multiple canopies placed side by side will be considered a single canopy for purposes of calculating the 400 square feet in the aggregate, unless each canopy is placed at least 12 feet apart from one another.

- c. Any canopy that does not meet either the square footage or the 12-foot distance from a building requirements set forth in subsections III(Y)(1) or III(Y)(2) may only be utilized if a special event permit is obtained from the Santa Monica Fire Department and there is compliance with the conditions stated in such a permit, which may vary from the terms of these Regulations.

### Propane and Electric Heaters

- Z. Propane or electric heaters may be utilized in the permitted outdoor space so long as the eligible business complies with the heater requirements in this subsection. Propane heaters may only be utilized in the permitted outdoor space so long as the eligible business (1) has an existing or obtains a propane heater permit from the Santa Monica Fire Department, (2) complies with the Santa Monica Fire Department's Fire Prevention Policy Number 1-9 on Portable Propane Heaters, (3) secures or removes the propane heater(s) every day upon closing of the business, (4) does not place a propane or electric heater within 6 feet of a public tree; and (5) does not place a propane or electric heater within 5 feet of any other combustible material, including an umbrella. Any use of a propane or electric heater is subject to inspection by the Fire Marshal and the terms of such use may be modified by the Fire Marshal if, in his sole and complete discretion, he determines such modifications are in furtherance of public safety.
- AA. Heaters used in connection with a temporary seasonal tent/canopy must comply with the requirements set forth in subsection III(Y).
- BB. Table lamps using liquid fuel, candles, or any fixtures other than a propane heater using an open flame are not permitted. Decorative lighting plugged into a legal outlet is permitted, provided that such lighting is strung overhead, maintains a 7-foot height clearance for pedestrian passage, and the electrical cord is not placed on the ground surface, or if it is not feasible to string the lighting overhead, any extension cord must be covered with a flat and bright extension cord cover that is ADA accessible.
- CC. If the physical location of the eligible business is adjacent to the permitted outdoor space, the eligible business may affix lighting fixtures to the exterior portion of the building occupied by the eligible business facing the permitted outdoor space, subject to design review, provided that any such lighting meets applicable California Electrical Code standards and any required building permits are obtained.