



**Community Development Department
Environmental Health Department
Public Works**

July 15, 2020

MEMORANDUM

TO: Chair Katherine M. Miller
Supervisor Miguel Villapudua
Supervisor Tom Patti
Supervisor Chuck Winn
Supervisor Bob Elliott

FROM: David W. Kwong, Director of Community Development Department *DK*
Fritz Buchman, Interim Director of Public Works *FB*
Wayne Fox, Interim Director of Environmental Health *WF*

SUBJECT: REVISED GUIDANCE FOR OUTDOOR SEATING ON PRIVATE PROPERTIES
AND PUBLIC RIGHTS OF WAY IN THE UNINCORPORATED AREA OF SAN
JOAQUIN COUNTY, EXCLUDING MOUNTAIN HOUSE REGULATIONS
APPENDIX 1, TO ALLOW FOR SOCIAL DISTANCING

This policy memorandum is to provide guidance on how eating establishments, wineries, and off-site wine cellars can provide outdoor seating on private properties and public rights-of-ways (public sidewalks and certain county owned rights-of-way) to meet social distance requirements in compliance with the County Code. This guidance will remain in place so long as social distancing relating to Covid-19 is required by the San Joaquin County Public Health Officer and/or the Governor unless the guidance is otherwise withdrawn or superseded.

This guidance is developed and issued pursuant to San Joaquin County Development Title Section 9-105.8 that allows the Director of Community Development to interpret Title 9 to resolve any ambiguity concerning the content or application of the Development Title.

Eating Establishments

Eating establishments' Use Types are defined and governed by Title 9-115.425 as any approved business that conducts the sale of prepared food and beverages for on-premises consumption. In light of the need for social distancing, the Community Development Director has reviewed and interpreted the Development Title to allow outdoor eating areas in conjunction with an eating establishment as follows:

1. Outdoor eating area(s) shall be considered an accessory use that is incidental and subordinate to the principal use of the eating establishment;
2. The amount of outdoor eating area(s) shall be equal to or less than the amount of eating establishment's inside eating area;

3. Where feasible, off-street parking spaces may be used as outdoor eating areas;
4. No additional off-street parking spaces are required when an eating establishment adds seating outside, even within off-street parking spaces;
5. The outdoor eating area(s) shall not impede or be within the required clear paths of travel on sidewalks and plaza areas (minimum four (4' 0") foot wide path of travel to meet accessibility requirements of the California Building Standards Code);
6. Hours of operation for outdoor eating areas shall coincide with the typical hours of operation for the eating establishment;
7. Special Outdoor Events and Outdoor Entertainment are not permitted as part of the outdoor eating on private properties unless approved under a separate permit by the Community Development Department;
8. A minimum four (4' 0") foot wide path of travel shall be provided and maintained along all pedestrian walkways from the public right-of-way and/or parking lot to all public building entrances. No outdoor seating or use may obstruct this required pedestrian clearance in any manner, regardless of the width of the sidewalk;
9. Eating establishments shall comply with all applicable State and County laws and regulations pertaining to outdoor eating (including but not limited to sale and consumption of alcoholic beverages);
10. All forms of speaker amplification associated with the outdoor eating provided under this order shall be prohibited;
11. Temporary membrane structures and/or tents will require an operational permit from the local fire district for a tent(s) having an area in excess of 400 square feet. Outdoor activities can be conducted under a tent canopy so long as no more than one side is closed allowing sufficient outdoor air movement" and not be placed, if a parking lot blocking the traffic line of sight of motoring vehicles.

Wineries and Wine Cellars

Wineries (large, medium and small) and wine cellars are governed by Title 9-1075. The Development Title currently allows as an accessory use, wine tasting rooms, outdoor seating or eating areas ancillary to a wine tasting room as well as retail sales up to a maximum of 500 square feet for prepackaged foods. In light of the need for social distancing, the Community Development Director has reviewed and interpreted the Development Title to allow outdoor seating or eating areas in conjunction with a winery or wine cellar as follows:

1. Outdoor eating area(s) shall be considered an accessory use that is incidental and subordinate to the principal use of the winery or wine cellar;
2. The amount of outdoor seating or eating area(s) shall be equal to or less than the number of seats provided inside the wine tasting room;

3. Where feasible, off-street parking spaces may be used as outdoor seating or eating areas; and
4. No additional off-street parking spaces are required when a winery or wine cellar adds outdoor seating or eating, even within off-street parking spaces. The amount of outdoor eating area(s) shall be equal to or less than the amount of eating establishment's inside eating area;
5. Where feasible, off-street parking spaces may be used as outdoor eating areas;
6. No additional off-street parking spaces are required when a winery establishment adds seating outside, even within off-street parking spaces;
7. The outdoor eating area(s) shall not impede or be within the required clear paths of travel on sidewalks and plaza areas (minimum four (4' 0") foot wide path of travel to meet accessibility requirements of the California Building Standards Code);
8. Hours of operation for outdoor eating areas shall coincide with the typical hours of operation for the tasting room;
9. Special Outdoor Events and Outdoor Entertainment are not permitted as part of the outdoor eating on private properties unless approved under a separate permit by the Community Development Department;
10. A minimum four (4' 0") foot wide path of travel shall be provided and maintained along all pedestrian walkways from the public right-of-way and/or parking lot to all public building entrances. No outdoor seating or use may obstruct this required pedestrian clearance in any manner, regardless of the width of the sidewalk;
11. Outside eating areas in conjunction with a winery establishments shall comply with all applicable State and County laws and regulations pertaining to outdoor eating (including but not limited to sale and consumption of alcoholic beverages); and
12. All forms of speaker amplification associated with the outdoor eating provided under this order shall be prohibited.
13. Temporary membrane structures and/or tents will require an operational permit from the local fire district for a tent(s) having an area in excess of 400 square feet. Outdoor activities can be conducted under a tent canopy so long as no more than one side is closed allowing sufficient outdoor air movement" and not be placed, if a parking lot blocking the traffic line of sight of motoring vehicles.

The San Joaquin County Development Title Section 9-1145 authorizes the Director of Public Works to issue permits and enforce encroachment regulations within public rights-of-way. The Director of Public Works provides the following guidance for encroachments into the public right-of-way for outdoor eating areas in conjunction with an eating establishment, winery, or wine cellar (the "establishment"):

An encroachment permit is required to use any County right-of-way for an Establishment. Eating Establishments desiring such an arrangement shall submit an encroachment permit application on approved forms (available at <https://www.sigov.org/departments/pwk/permits>) to

the Public Works Department (Public Works) with a depiction of the proposed location and layout.

1. Public Works will determine on a case-by-case basis the suitability and appropriateness of the proposed public right-of-way use requested by the Establishment for the outdoor eating area(s);
2. The use of County right-of-way for outdoor eating shall not interfere with vehicular traffic;
3. The use of County right-of-way for outdoor eating shall in no way impede visibility of traffic signs and striping, or access to devices placed in the right-of-way for public safety, including but not limited to pedestrian call buttons and curb ramps;
4. The use of County right-of-way shall comply with the Americans with Disabilities Act Accessibility Guidelines. A minimum four (4) foot wide path of travel shall be provided and maintained along all pedestrian walkways from the public right-of-way and/or parking lot to all public building entrances. No outdoor use shall obstruct the required pedestrian clearance in any manner, regardless of the width of the sidewalk;
5. Any temporary outdoor dining area enclosure or barrier shall be installed and located in a safe manner and not exceed three (3) feet in height;
6. Hours of operation for outdoor dining in the County right-of-way shall coincide with the hours of operation for the Establishment;
7. All sidewalk furniture, seats, tables and other appurtenances shall be removed if the Establishment is closed for more than (48) forty-eight hours unless otherwise approved by the Director of Public Works;
8. No signs shall be permitted in connection with an outdoor seating area in the County right-of-way except as may be required for public health and safety reasons; and
9. Encroachment permits are revocable as set forth in the permit conditions and do not grant a permanent right to use the County right-of-way.

California Retail Food Code Section 114387 requires all food facilities to have a Health Permit from Environmental Health. Environmental Health regulates the food preparation area to insure that a safe and healthy product is served to the customers. The Environmental Health Director is interpreting the allowance for the addition of outdoor eating areas in conjunction with a permitted food facility and provides the following guidance:

1. Adding or increasing the size of outdoor eating area(s) at a permitted food facility does not require a new permit or change to the existing permit; and
2. Changes to the existing food preparation area or kitchen requires approval from the Environmental Health Department.

An allowance to add or increase the size of outdoor eating area(s) does not change the following requirements:

1. Food preparation is only allowed in the approved kitchen area with approved vermin control and equipment; and
2. Any food preparation outside of the approved food preparation area without prior approval of the San Joaquin County Environmental Health Department is not permitted and could result in the revocation of the facility Permit to Operate.

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