

ReStart CLE



Outdoor Dining Guidelines and Regulations



CITY OF CLEVELAND
Mayor Frank G. Jackson

Outdoor Dining Temporary Expansion Area Guidelines and Regulations.

Overview:

Given the recent developments around COVID-19 there has been a desire to maintain outdoor patios and expand them where necessary as they bring life and vitality to the street. The following items are guidelines and regulations that have been developed to ensure that these outdoor cafes are being used for their intended purpose, do not become obstructions to the pedestrian flow, do not become aesthetically unpleasing, do not become a negative distraction to the streetscape, and ensure that health and safety precautions are followed consistent with state and local mandates.

Under the Governor's order, restaurants that reopen for outdoor and indoor dining services must follow social distancing and other requirements. To support local restaurant business operations and ensure the health, safety, and welfare of the public, the City of Cleveland is instituting the following rules and regulations that will allow business owners to apply for a new or expand an existing patio permit. This Temporary Expansion Area (TEA) permit will give restaurant businesses located in certain designated districts, and other restaurant businesses that meet eligibility requirements, the ability to expand their footprint to ensure appropriate social distancing requirements are maintained.

These rules and regulations governing the TEA permits are in addition to the rules and regulations for outdoor restaurants established under codified ordinance Chapter 513. Chapter 513 and the rules and regulations adopted under Chapter 513 shall apply to TEA permittees. If there is a conflict between these rules and regulations and those promulgated under the authority of Chapter 513, these rules and regulations shall apply.

A TEA permit is a revocable license to temporarily use the temporary expansion area for outdoor dining. A TEA permit does not create a private right to occupy the public right-of-way. The City has the right to enter upon the right-of-way at any time for any purpose, including without limitation to inspect the right-of-way and permitted encroachments; provided, however, the City shall have no duty to inspect.

Regulations:

Temporary Expanded Area Permit Applicants:

Ordinance No. 461-2020 allows the Director of Capital Projects and the Director of City Planning to establish a temporary program for the use of private parking lots, streets and other public rights-of-way, including on-street parking areas and parklets (Temporary Expansion Area or TEA), as outdoor restaurants.

The City reserves in its sole discretion the ability to deny an application if it determines that the proposed site is not suitable as a temporary expansion area due to safety or public health concerns.

Permit Application Requirements

All TEAs permitted under this temporary program must be in compliance with State and local health requirements intended to slow or prevent the transmission of COVID-19. Applications are to be submitted online at restartdining@clevelandohio.gov or in person to the Office of Capital Projects or City Planning. As part of the approval process, applications will be reviewed by the Director of the Office of Capital Projects, the Director of Public Health, the Director of Public Safety, the Director of the City Planning Commission, the Director of Building & Housing, and the Secretary of the Landmarks Commission, as applicable. Applications will be processed in the order they are received.

Application: Online/Paper Form shall include the following:

- Name and address of establishment
- Name, phone number, and address of the applicant
- Hours of operation of TEA
- Temporary Outdoor Restaurant Permit # (if applicable)
- Contact Name
- Contact Phone #
- Contact Email
- Contact Title
- Choose the dining area type that best describes the expansion area. Must be consistent with one of the defined typologies established by the City of Cleveland in **Appendix B** of this document.
- If parklet, how many parking spaces?
- Basic site plan. (paper form or digitally to ReStartDining@clevelandohio.gov)
- Additional info text
- Attach any documents or photos, including:
 1. If applicable, a copy of the applicant's liquor permit, expansion permit, and a complete copy of the expansion permit application submitted to the Division of Liquor Control;
 2. Evidence that all required health licenses, including, but not limited to, the license required by section 241.21 of the Codified Ordinances, have been obtained or have been applied for;

3. A signed statement that the permittee shall hold harmless the City of Cleveland, its officers and employees and shall indemnify the City of Cleveland, its officers and employees for any claims or damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee and the City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage in an amount of not less than One Million Dollars (\$1,000,000.00) on account of an accident involving injuries, including death, to one (1) or more persons and property damage insurance in an amount of not less than One Million Dollars (\$1,000,000.00), or a combined single limit of One Million Dollars (\$1,000,000.00) provided however, that this insurance requirement shall not be construed to limit permittee's indemnification obligations to the above-required limits of insurance. Such insurance shall also include the City of Cleveland, its officers and employees, as additional insured; and

4. General site layout of the proposed expansion area and site details.

- Signature
- **Permit Fee Duration:** A Temporary Expansion Area permit, is valid through November 1, 2020, unless earlier terminated or revoked. No fee will be required for a TEA permit application.
- **Patio Elements:** An application for a Temporary Expansion Area permit shall include detailed plans drawn to scale showing the number and location of patio elements, including standard tables, chairs, and umbrella. Additional elements such as tents, generators, and other structures may require additional approvals. All elements must remain within the approved site plan area of operation.
- **Spacing Requirements:** All patio furnishing must be organized to allow for appropriate social distancing between tables in compliance with Ohio Department of Health orders.
- **Protective Barrier Structure for patio area expansion:** All expanded patio enclosure areas must contain the appropriate protection between the patio area and vehicular traffic. This will require a much stronger barrier than a typical patio enclosure. The structure must be removable at the end of business hours (if necessary) or after any designated period approved as part of the application. In the case of a full street closure, or where, in the determination of the City, additional buffers are needed, the City may provide the necessary protective barrier structure at no cost.
- **Maintenance:** Permittees shall maintain the TEA in accordance with all City, County, and State laws, regulations, and orders. Permittee shall be responsible for keeping the TEA clean and safe.

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- **Alcohol Regulations:** Restaurant and bar owners who wish to serve alcohol in their TEA must obtain the required approvals from the state Division of Liquor of Control. Business owners should contact the Superintendent and Chief of Licensing Section at (614) 644-9201 for more information.
 - **Penalties:** A TEA permit may be suspended or revoked if the permittee or his or her agent fails to abide by the provisions of these rules and regulations. Notice to the permittee shall be provided in accordance with Codified Ordinance Section 513.08.

Appendices:

Appendix A: District Designations

Certain sites/locations may not be eligible for a temporary expansion area permit due to safety or public health concerns.

Within the following designated districts, the City of Cleveland reserves the right to apply the typologies, as described in Appendix B, that it deems appropriate for the area based upon such factors as the type of street (primary or secondary), availability of off-street solutions, and other considerations, including but not limited to the following:

- Ability to ensure adequate spacing for customers within the TEA;
- Ability to maintain a clear path for pedestrians on the sidewalk;
- That there are no adverse impacts on fire lanes, hydrant access, or other emergency vehicle response;
- The traffic speed, width of street, or other safety issues related to proximity of vehicular traffic; and
- That there are no encroachments impeding access to private property, delivery zones, and driveways.

Common Area Plan: Multiple restaurants within a designated district may use a common area plan. An applicant shall indicate on the permit application that the restaurant is part of a common area plan. An application indicating that the business is participating in a common area plan, in addition to the above application requirements, shall also include:

1. The district name
2. Name of the participating businesses
3. Designated times for street closures (if applicable)
4. A site layout plan that illustrates the proposed approach which will be evaluated against the City of Cleveland's Outdoor Dining typologies.
5. Common Area Plan

The following list of districts are identified clusters of businesses that have the potential to draw larger volumes of patrons. Applications may be received regardless of if a business falls within these districts.

<u>DISTRICT</u>	<u>STREETS</u>
Asiatown	Superior or Payne
Shaker Square*	Shaker Blvd.
Ohio City*	West 25 th St.
Public Square	Superior
Gordon Square	Detroit Ave / W. 65 th St
Little Italy	Mayfield Rd.
Downtown - Euclid	Euclid Ave
Downtown -Prospect	Prospect Ave
Downtown -E. 9 th Huron	Huron Rd.
Kamms Corners	Lorain Ave
Larchmere*	Larchmere Blvd.
Waterloo District	Waterloo/156th
Collinwood	East 156th/Waterloo
Downtown	Huron
Ohio City*	Market Street
Ohio City Hinge Town*	West 29th
Warehouse District	W. St. Clair Ave. / W. 6 th St.

Appendix B: Typologies

The City of Cleveland developed the following typologies that outline the approaches to be considered for a TEA. Any applicant seeking to obtain an expanded outdoor permit shall provide a site plan that is consistent with one or more of the identified typologies.

(See attachment or access typology explanations [here](#))

On-Street Parking Space/Parklets

Modular, protected patios in on-street parking spaces

Appropriate for areas without significant clusters or without interest in larger interventions.

- Parking spaces, typically 10’ x 18’
- Parklets will require barriers as needed to safely protect from vehicles
- There can be no breaks in the wall, all wall sections must be connected

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- Maintain a minimum path of travel along the sidewalk area of at least 48” in width at all points adjacent to the outdoor dining area
 - An applicant’s site plan shall only include parking spaces directly fronting their business establishment. If a site plan includes parking spaces fronting an adjacent business, written consent of the owner of the adjacent business is required.

Secondary Streets

Full street closure, all hours - In addition to this application form, additional process may be required for a full street closure. If initially approved, the City will notify the applicant of the additional steps necessary for a full street closure.

- Street closure requires an Ohio Manual on Uniform Traffic Control Devices Type 3 barricade along with an advanced warning road closed sign.
- Limited closure hours
- Other factors that will be evaluated include but are not limited to traffic patterns, impact on other property owners, food delivery service, and emergency response access.

Primary Streets

- Street closure requires an Ohio Manual on Uniform Traffic Control Devices Type 3 barricade along with an advanced warning road closed sign.
- Limited closure hours
- Other factors that will be evaluated include but are not limited to bus routing, traffic patterns, emergency response access, impact on other property owners, and food delivery service.

Off Street Parking lots/Open Space

Eating plazas that address parking areas.

- Public parking lots must maintain parking spaces for occupancy depending on the size, surplus capacity, and demand of a given lot.
- Private parking lots can be utilized for outdoor dining at the discretion of the owner and approval by the city and the appropriate use permits from the Department of Building and Housing.

Appendix C: Permit Applications:

Standard Outdoor Patio Application

Temporary Expansion Area Application

Appendix D: Ohio Department of Health Director’s Dine Safe Ohio Order:

<https://coronavirus.ohio.gov/static/publicorders/Directors-Order-Dine-Safe-Ohio.pdf>