



Community Development Department

108 E. Proctor Street
Carson City, Nevada 89701
(775) 887-2180 – Hearing Impaired: 711

Date: October 31, 2016 Item 5.2

To: Redevelopment Authority Citizens Committee
Meeting of November 7, 2016

From: Lee Plemel, Director

Subject: Presentation and discussion only regarding Downtown Encroachment Permits

This item has been placed on the agenda for discussion at the request of RACC members. With the new downtown improvements being completed, the use of the public sidewalk for businesses such as restaurants is expanding. These sidewalk areas are generally within the city-owned public right-of-way. All encroachments into the public right-of-way—including permanent structures or the ongoing use of the property—require approval of an encroachment permit from the Public Works Department, Engineering Division.

Public Works has drafted a new encroachment permit (attached) to specifically address issues related to the use of public sidewalks downtown for outdoor dining. It also incorporates standards already adopted in the Downtown Mixed-Use Development Standards (Title 18 Appendix, Division 6) for outdoor display of merchandise and A-frame signs. The proposed standards address issues such as quality of materials, cleaning and maintenance, and public sidewalk access.

Public Works plans on taking the new encroachment permit to the Board of Supervisors for adoption in November. Public Works has distributed the draft permit standards to stakeholder groups such as the Chamber of Commerce, Downtown Business Association, and downtown business and property owners for comment.

A representative from Public Works will be at the RACC meeting to give an overview of the encroachment permit process and answer any questions RACC may have. If you have any questions regarding this item, please contact Lee Plemel at 283-7075 or lpemel@carson.org.

Attachments:

1. Letter from Public Works to downtown property and business owners
2. Draft Encroachment Permit standards



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October 20, 2016

Dear Downtown Business / Property Owner:

Subject: Notice to Owner
Encroachment Permit Information for Outdoor Dining & Merchandise Display

The Carson City Public Works Department is currently in the process of drafting the encroachment permit requirements for outdoor dining and merchandise display within the Carson City right-of-way in downtown Carson City.

Division 6 of the Carson City Development Standards, which can be found in Title 18 (Appendix) of the Carson City Municipal Code, sets forth Carson City's ordinance provisions relating to the Downtown Mixed-Use District. The purpose of these ordinance provisions governing permit requirements is to ensure that outdoor dining and merchandise display areas comply with Carson City's standards for seating, alcoholic beverage sales, parking requirements, clean-up facilities, and design and use compatibility.

As a business or property owner in the Downtown Mixed-Use District, we are providing a copy of the draft permit requirements for your review. We will be accepting comments until Thursday, November 3, 2016. Although it may not be feasible to incorporate all comments into the permit, the Public Works Department will provide responses to all comments received.

Please provide your comments in writing to Stephanie Hicks, Real Property Manager, at shicks@carson.org or 3505 Butti Way, Carson City, Nevada 89701.

We look forward to your input and cooperation on this matter.

Sincerely,

Stephanie A. Hicks, AICP, CFM
Real Property Manager
Carson City Public Works Department



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ENCROACHMENT PERMIT INFORMATION FOR OUTDOOR DINING & MERCHANDISE DISPLAY

GENERAL INFORMATION

This information sheet explains the applicable ordinance and policy provisions which establish permit requirements for outdoor dining and merchandise display within the Carson City right-of-way in downtown Carson City.

Division 6 of the Carson City Development Standards, which can be found in Title 18 (Appendix) of the Carson City Municipal Code, sets forth Carson City's ordinance provisions relating to the Downtown Mixed-Use District. The purpose of these ordinance provisions governing permit requirements is to ensure that outdoor dining and merchandise display areas comply with Carson City's standards for seating, alcoholic beverage sales, parking requirements, clean-up facilities, and design and use compatibility.

Outdoor dining and merchandise display areas may be permitted on the sidewalk areas in the Downtown Mixed-Use District with approval of an encroachment permit. However, because these areas are located within City right-of-way, additional requirements apply, including requirements for liability insurance and an encroachment/hold harmless agreement from the City's Public Works Department. These requirements are addressed through the permit approval process.

The Outdoor Dining & Merchandise Display Encroachment Permit does not exempt the business operator from having to obtain any other required City, State or Federal permit or license, or from complying with any other applicable law or regulation, including, for example, the American with Disabilities Act (ADA).

OUTDOOR DINING & MERCHANDISE DISPLAY ENCROACHMENT PERMIT

The Outdoor Dining & Merchandise Display Encroachment Permit is issued by the City's Public Works Department, and is generally subject to the following conditions of approval:

Outdoor Dining

- The outdoor dining area must not exceed the approved depth from the front of the building or exceed the specified width of the building frontage.
- Street furniture shall be placed so as to maintain a clear zone or clear pedestrian walkway that is a minimum of 6 feet in width. Street furniture includes, but is not limited to benches, trash receptacles, outdoor dining areas and other pedestrian amenities.
- Umbrellas are allowed; however, umbrellas must not contain any commercial advertising or logos, and must have a minimum height clearance of 7-feet 6-inches.
- A permittee is required to maintain at all times, and at its sole cost and expense, the common areas within 12 feet of the premises to be free and clear of the food and beverages sold by the permittee, including trash, debris, and spillage, or unconsumed or unattended food and beverages. The permittee is responsible for power washing concrete and all other cleaning within their designated, permitted sidewalk area.
- It is the responsibility of the permittee to pick up and police areas downwind of their permit area if the trash comes from their business.



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- 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.
- If an outdoor dining use offers alcoholic beverage service, the permittee must have the applicable liquor license for on-site consumption, including proof of where alcohol was purchased. Additionally, any restaurant providing such service must maintain liquor liability coverage in the restaurant’s general liability policy.
- All outdoor dining furnishings must be of commercial grade and designed for outdoor use. All furnishings must 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.

Materials - Permitted:

- 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 umbrellas must be secured. (See Development Engineering for guidelines and approved methods of securing.) 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.

Materials - Permitted:

- 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 table top lighting (candles or other low level light sources) are 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



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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.

- Outdoor dining areas may be delineated by planters or moveable fencing. Fencing must be wrought iron or other ornamental with clear visibility (open works) and shall not exceed 3.5 feet in height. No vinyl or plastic fencing is allowed.
- Outdoor dining uses within the designated, permitted, sidewalk area shall be required to operate a minimum of four hours per day, six days per week, seasonally as weather permits.
- Standing portable propane heaters are permitted subject to review and approval by the Fire Department. Electric or fuel heaters other than propane are prohibited.

Merchandise Display

- Each business is limited to one outdoor merchandise display. Outdoor merchandise display may include:
 - A single display table that is a maximum of 3 feet wide and 6 feet in length;
 - A mannequin used to display clothing or other merchandise sold within the store;
 - A grouping of furniture or other merchandise sold within the store that occupies a portion of the sidewalk not more than 3 feet in width and 6 feet in length; or
 - Similar displays as approved by the Carson City Director of Community Development.
- Outdoor merchandise displays must be placed against the building from which the business operates or within the landscaped area between the sidewalk and the street.
- Outdoor merchandise displays must be in compliance with Clear Zone provisions, as specified in Carson City Development Standards, Section 6.6.7(4).
- Outdoor merchandise displays must not be displayed during non-business hours.
- No outdoor merchandise display may be located where it obstructs the line of sight for passing motorists.

Signage

- One A-Frame (“Sandwich-Board”) sign is permitted per street frontage.
 - Signs must be placed against the building the business operates.
 - A minimum of six feet of unobstructed sidewalk is required.
 - Signs must be professionally manufactured and must not exceed 32 inches in width and 36 inches in height. However, chalkboard frames with erasable letters are also appropriate.
 - All signs must be in good repair and neatly painted. No attachments to signs are permitted.
 - Signs may not be displayed during non-business hours.
 - No sign may be located where it obstructs the line of site for passing motorists.
- Businesses may affix signage on tables that states that tables are for patrons only.



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General Requirements

- Outdoor dining and merchandise display use is a privilege. The City has the right and absolute authority to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems and conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events or parades or marches, repairs to the street or sidewalk or from demonstrations or emergencies occurring in the area. To the extent possible, the permittee will be given prior written notice of any time period during which the operation of the outdoor dining area will be prohibited by the city.
- A clear zone that is unobstructed by any permanent or nonpermanent street furniture, outdoor merchandise displays, benches, trash receptacles, outdoor dining areas and other pedestrian amenities is required to be maintained. The clear zone must be a minimum of 6-feet in width.
- Outdoor dining or merchandise displays are not allowed within ten feet of a fire hydrant, fire department standpipe connection, fire escape, bus stop, any doorway posted as an exit, loading zone, mail boxes, or traffic signal stanchions.
- Permanent changes to the sidewalk area are not permitted. Any sidewalk, City improvements or utilities damaged or destroyed by the outdoor dining or merchandise display use must be replaced to City Standards with the cost to be borne by the use operator.
- All the outdoor dining furnishings and merchandise displays must be maintained in a safe and clean condition. All sidewalk use furnishings and displays must be stored indoors nightly. Furnishings may not be stacked outside at any time.
- No loud speakers, televisions, phonographs, radios or other devices may be used without prior approval from the City.
- Use of electrical receptacles in the public right-of-way is only permitted during special events and will be reviewed on a case-by-case basis.
- Approval, if granted, is for the seating and/or merchandise display as indicated on the submitted site diagram and subject to the specified requirements and conditions of approval of a permit.
- Approval of an encroachment permit/hold harmless agreement from the City Public Works Division is required.
- An applicant must maintain and annually provide evidence of liability insurance naming Carson City as an additional insured. If an outdoor dining use offers alcoholic beverage service, liquor liability coverage must be included in the general liability policy.
- The permit approval is effective for the calendar year (January 1 through December 31). Future renewal is considered annually by the Public Works Department.
- The City reserves the right to amend or supplement these rules and regulations, and to adopt or add new rules and regulations applicable to encroachment permits. Notice of such changes will be provided to permittees and permittees agree to comply with all such rules and regulations upon receipt of notice.
- The City may terminate this agreement at any time without cause.
- A permit may be suspended or revoked by the Board of Supervisors following notice to the permittee and a noticed public meeting. The permit may be suspended or revoked if the Board finds that the permittee has violated 3 conditions of the permit within a twelve-month period or that the permitted area



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is being operated in a manner which constitutes a nuisance, or that the operation of the outdoor dining or merchandise display area unduly impedes or restricts the movement of pedestrians past the outdoor service area.

Street and Sidewalk Vending

- Applications for street and sidewalk vending are reviewed by the Redevelopment Advisory Citizens Committee which also serves as the Vending Review Board. Contact the Community Development Department at 887-2180 for more information regarding sidewalk vending permits.
- The City has designated busking and free speech areas.

The Public Works Department may: (1) require setbacks from adjoining land uses and streets; (2) require performance bonds or other surety measures to ensure site maintenance; (3) limit the hours of operation; and (4) apply conditions to regulate factors such as light and glare, dirt and dust and noise odors and permit violations. Please refer to Division 6 of Title 18 (Appendix) of the Carson City Municipal Code for additional information concerning outdoor dining areas and merchandise displays.

SUBMITTAL REQUIREMENTS FOR ENCROACHMENT PERMIT FOR OUTDOOR DINING & MERCHANDISE DISPLAY

The items listed in the “Encroachment Permit for Outdoor Dining & Merchandise Display Checklist” must be submitted as part of the application package in order for the application to be complete for processing. The checklist must also be submitted with the application. The application will not be accepted if all of the items listed are not submitted.



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Encroachment Permit for Outdoor Dining & Merchandise Display Checklist

Business Name: _____ Project Site APN: _____

Contact Name: _____ Phone Number: _____

Application Number (to be filled out by City staff) _____

Applicant must fill out the checklist below by placing a check mark in the boxes listed under Column A (for Applicant) and signing below. Column S is for staff to verify that your submittal requirements have been met.

A S

- 1. Completed application for Encroachment Permit for Outdoor Dining & Merchandise Display.
- 2. Cover Letter describing the following:
 - a. Layout of proposed seating area or merchandise display (number of tables and chairs, access to seating area from the restaurant and the street, etc.)
 - b. Colors, materials, and dimensions for proposed tables, chairs, and displays.
 - c. Description of any proposed umbrellas and method of securing (no commercial advertising or logos allowed; must meet height requirement of 7' 6").
 - d. Proposed dates and hours of operation.
 - e. Proposed maintenance plan.
- 3. Site Plan Requirements – One copy of a site plan must be submitted with the application. The site plan must be of sufficient scale to show all information clearly; the information on the site plan must be readable and understandable. If the plan is not legible, the application will not be accepted. The site plan must include the following information:
 - a. Location and dimensions of proposed seating area or merchandise display.
 - b. Location and dimensions of required pedestrian walkway (either a six-foot wide sidewalk or the width from the approved outdoor dining area or display to the street, whichever is greater).
 - c. Location, dimension and type/use of adjacent buildings and structures on the property.
 - d. Location and dimensions of proposed tables and chairs, umbrellas, and displays.
- 4. Proof of Insurance – The applicant has provided evidence of liability insurance naming Carson City as an additional insured in the amount of at least one million dollars (\$1,000,000) in single occurrence and two million dollars (\$2,000,000) in the aggregate. If an outdoor dining use offers alcoholic beverage service, liquor liability coverage is also included in the general liability policy. A certificate of Liability Insurance must be provided to the City annually.
- 5. Hold Harmless Agreement – The applicant has provided the signed hold harmless agreement.
- 6. Permit Review Fee of \$100.00.

Applicant Signature / Printed Name: _____

I certify that I have completed and have included all material checked above in the attached application submittal.

3505 Butti Way, Carson City, NV 89701 (775) 887-2355 FAX (775) 887-2112

Operations: Water, Sewer, Streets, Wastewater, Landfill, Environmental
Engineering, Transportation, Capital Projects



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Encroachment Permit for Outdoor Dining & Merchandise Display

Insurance Requirements & Hold Harmless and Indemnification

The permittee agrees to purchase and maintain, for the duration of this permit, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of any activity or conduct relating to the permit by the permittee, the permittee's officers, employees, agents, or assigns.

Minimum Scope of Insurance: Commercial General Liability Coverage.

Minimum Limits of Insurance: Liability insurance naming Carson City as an additional insured in the amount of at least one million dollars (\$1,000,000) in single occurrence and two million dollars (\$2,000,000) in the aggregate. If an outdoor dining use offers alcoholic beverage service, liquor liability coverage must be included in the general liability policy.

Other Insurance Provisions: The general liability policy must contain, and be endorsed to contain, the following provisions:

1. Carson City, its officials, employees, agents and designated volunteers are to be covered as insured in respects to liability arising out of the activities performed by or on behalf of this permit. The coverage must not contain any special limitations on the scope of protection afforded to the City, its officials, employees, agents or volunteers.
2. For any claims to the permit, the permittee's insurance must be primary insurance for the City, its officials, employees, agents, or volunteers. Any insurance or self-insurance maintained by the City, its officials, employees, agents and volunteers must be in excess of the permittee's insurance and must not contribute to it.
3. Any failure to comply with reporting or other provisions of the permittee's policies, including breaches of warranties, must not affect coverage provided to the City, its officials, employees, agents, or volunteers.
4. The permittee's insurance must apply separately to each insured against whose claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause must be endorsed to state that the coverage will not be reduced, suspended, voided or canceled unless thirty (30) days' written notice by certified mail, return receipt, has been provided to the City's Risk Management Coordinator.

Verification of Coverage: Permittee shall furnish to the City's Development Engineering the original Certificate of Insurance and endorsements affecting coverage required by this permit. All certificates and endorsements must be received before the permit becomes effective.

Hold Harmless and Indemnification: The permittee agrees to indemnify, defend and hold harmless Carson City and any of its officers, employees and agents, from any and all claims, actions, suits, procedures, costs, expenses, damages and liabilities, including, without limitation, attorney's fees, resulting from the conduct or performance of activities by the permittee which relates to or arises from the issued permit.

Permittee's name – PRINTED _____

Permittee's Signature _____ Date _____

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