

GUIDANCE FOR PERMITTING TEMPORARY USE OF SIDEWALKS AND CURBSIDE PARKING AREAS ON STATE HIGHWAY SYSTEM FOR COVID-19 RELATED VENDING AND ADVERTISING ACTIVITIES

On March 19, 2020, Governor Newsom issued a stay-at-home order (Executive Order N-33-20) to address the State of Emergency related to the spread of COVID-19 in the State of California. After continuously monitoring the situation, the stay-at-home order was relaxed by the Governor in a phased manner and businesses were allowed to reopen and operate. To help protect the public health and promote the reopening safely as well as to support the survival of many local businesses during the declared State of Emergency by allowing additional areas for physical distancing, Caltrans issued guidance to accommodate modified use of sidewalks and curbside parking areas of State Highway Right-of-Way on June 12, 2020.

On July 13, 2020, the California Department of Public Health Director issued a Statewide Order restricting indoor operations, while recommending restaurants to encourage takeout and delivery service whenever possible. To promote public health safety by providing additional areas for physical distancing and to aid businesses struggling during the COVID-19 pandemic, the Governor issued an Executive Order (EO: N-83-20) on October 28th, 2020, suspending statutory restrictions associated with vending (Streets and Highways Code 731) in the State Highway System (SHS) for a period of 120 days. The following guidance regarding temporary commercial activities within the SHS serve to provide additional physical distancing opportunities and further help businesses and local economies to rebound.

GENERAL CRITERIA:

- A permit may be issued to cities and/or counties only. A permit may not be issued to businesses, private organizations (including non-profit organizations), or others.
- The locations are limited to conventional highways with existing sidewalks and/or curbside parking spaces.
- Federal Highway Administration approval is required for any installation within the right-of-way, and Caltrans will submit completed permit applications for approval on a case-by-case basis, which may require additional time.
- All temporary installations allowed must be above ground installations only. No excavation or ground disturbance is allowed. Attachments, anchoring, and other stabilizing systems to Caltrans facilities (sidewalks, pavement) by intrusive mechanical means (bolts, pins, etc.) are prohibited, unless specifically authorized by the permit.

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- All temporary installations/structures (except shade structures such as canopies) must be removed from the sidewalk and stored indoors whenever the associated storefront is not in operation.
- Adequate illumination of installations at nighttime shall be provided. Any and all hook-ups or connecting to any SHS utilities is prohibited. The Permittee is expected to independently procure needed utility services and infrastructure like temporary lighting fixtures, etc. Existing lighting in the SHS can be used AS-IS without any modifications.
- Permitted nighttime lighting fixtures shall not present a glare or negatively impact the safety of highway users, including but not limited to motorists, bicyclists, and pedestrians, and any person legally using the State Highway System right-of-way.
- Installations shall not block entrances or exits of buildings, access to trash cans, newspaper racks, or other items in the public right-of-way and shall not be situated in a way that inhibits operations at a designated bus stop.
- Installations must not inhibit the visibility and/or sight distance at any entrance or exit, such as driveways/alleys/business access, etc.
- The permittee must ensure all areas on SHS are properly maintained and kept free of trash or nuisance.
- On sidewalk, a minimum six (6) consecutive feet width shall be kept clear at every point and unimpeded for pedestrian traffic. Merchandise or use of the sidewalk by vendors or shoppers shall not encroach on the minimum clear sidewalk space.
- Parking spaces designated for ADA access shall not be blocked or used for temporary vending or advertising.
- Businesses can be authorized to operate their commercial activities along their frontage. No entity shall trade/lease/rent or barter SHS space.
- Travel lanes or sections of highway can be closed to facilitate commercial activities under the following conditions:
 - Closures are only during off-peak hours or weekends.
 - Adequate Safety measures are implemented to protect all users (Commercial activities related and traffic passing through) of the SHS.
 - Traffic mobility needs of the corridor and communities are adequately addressed through appropriate detours without significant delays (No more than 10 minutes).
 - City/County passes resolution approving the closures, days of the week and durations of closures.
 - Applicant provides adequate notifications to all impacted stakeholders regarding the closures and impacts (Including to the residents impacted by detour traffic).
- Hours of operation are per local jurisdiction approvals.

Markings for Physical Distancing:

- Only non-permanent removable tape may be used to mark the 6-foot social distancing spacing on the sidewalk or spaces designated for commercial activities.
- Size of the markings must be no larger than 12 inches by 12 inches.
- Permanent markings using paint or other means are prohibited.
- Markings must not be a tripping or slipping hazard.
- When the markings are no longer required or when the State of Emergency ends, the markings must be removed.
- Markings must not interfere with traffic control devices. Markings must not resemble any traffic control devices.
- Markings must be of plain solid color and must not include any message, advertising, symbol, etc.

Curbside Pickup:

- When the utilization of the curbside parking spaces impedes traffic operations, proper temporary traffic control shall be provided in accordance with Caltrans' Standard Plans or other approved temporary traffic control plans.
- All businesses fronting the SHS shall be provided equal access to provide curbside pickup services.

Temporary Commercial Activities:

- Permittee shall authorize each business to utilize only the frontage of the business. Encroachment beyond the frontage can be authorized subject to concurrence from the adjacent business or businesses.
- Outdoor seating area can include signage designating the area for use by the business.
- Use of space for commercial activities is only allowed where wide sidewalks with excess space are available beyond required ADA clearance for pedestrians and in existing curbside parking spaces.
- All access facilities (Including temporary arrangements/modifications) must conform with the Americans with Disabilities Act Accessibility Guidelines (available at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/ada-standards>).
- Temporary canopies or other temporary facilities to provide shade can be installed over sidewalks. They must comply with the requirements for "Arcades" established in Section 501.3b of the Encroachment Permit Manual in addition to the following conditions:
 - Conform to local building code.

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- Structurally adequate.
- Overhang cannot extend closer than 24 inches horizontally from the curb face. Exceptions are in historical districts where overhangs are permissible to the curb face.
- Preferred minimum vertical clearance from the sidewalk is 12 feet. A minimum 8 feet clearance is acceptable when local codes are satisfied.
- Must not interfere with or obscure any traffic control device or part thereof such as a traffic signal or a traffic sign.

Temporary Dining:

- The permittee may install temporary tables, chairs, and/or benches on sidewalk to serve the food and beverages sold to the public from or in adjoining indoor food serving establishment, when compliant with all applicable Caltrans policies and local codes.
- Smoking/vaping, marijuana, and/or marijuana-derived products shall not be advertised, served, or consumed/used within the State Highway right-of-way.
- All outdoor dining furniture and accessory devices shall be movable. Allowable accessory devices include umbrellas, planters, sandwich board signs, lighting, and heating. Said furniture and devices shall be arranged to adequately accommodate persons with disabilities including the visually impaired. Umbrellas must be secured with a minimum base of not less than 60 pounds.
- Outdoor music or speakers are prohibited.
- Outdoor misters/heaters are allowed with the appropriate fire, building, and safety requirements.
- Fencing, vertical shades, and windbreaks are not allowed.
- Outdoor preparation of food is prohibited in sidewalk dining areas.
- The presetting of tables with utensils, glasses, napkins, condiments, and the like is prohibited.
- All exterior surfaces within the sidewalk dining area shall be easily cleanable and shall be kept clean at all times.

Other Temporary Outdoor Retail:

- Use of the sidewalk or other designated areas for other commercial activities along the frontage of the business can be authorized to be used for the presentation and/or sale of merchandise.

Temporary Advertisement:

- Advertisement signs can be temporarily authorized to be installed and maintained by the businesses within the limits of their frontage.
- ADA clearance shall not be impeded at any time.
- Advertisement sign shall only be limited to the business and the services they provide. No other messaging or 3rd party advertisements are allowed.
- Advertisement signs shall be A-frame sandwich boards, signs, posters or other form no larger than 24"x36".
- Advertisements shall not include lighting, moving displays, music, or sounds of any type.
- The design of the advertisement shall not resemble traffic signs in style or in color.
- The location of the advertisement shall not block the view of traffic signs, signals, or traffic control devices.
- Advertisement shall be removed when associated business is closed/not open for business.

INSTRUCTIONS, ROLES, AND RESPONSIBILITIES:

District Permit Engineer:

- The applicant may only be a city and/or county. Permit code "MC" must be used for these permits. These permits are "Fee Exempt".
- Double permits are not required. Permit applicant shall provide a list of all contractors and authorized agents with the permit application and shall provide a supplemental list whenever any contractor or authorized agent is modified, added, or removed.
- Maintenance Agreements or Lease Agreements are not required. These requests will be managed as temporary encroachment activities and installations.
- Any installation within right-of-way requires FHWA approval.
- Every encroachment permit submittal must include NEPA documentation, and district approved permit package along with the draft permit for FHWA approval.
- Parklets design guidance available in Section 500.3I of the Encroachment Permit Manual shall be used for temporary seating in the parking area.
- Sidewalks must serve the pedestrian transportation needs. Only wide sidewalks where excess space is available beyond required ADA clearance for pedestrians can be utilized for authorized commercial activities.

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- The locations must be evaluated for ADA clearance to serve the pedestrian users through the corridor. Based on the evaluation by Caltrans staff, an ADA Certification may be required.
- Canopies or other means of shade proposed must be compliant with all applicable policies and requirements.
- The curbside parking modifications must be evaluated to ensure they do not negatively impact maintenance, operations and safety on the State Highway System.
- Smoking/vaping in State Highway right-of-way is prohibited.
- Permits may be issued for an initial duration of **120 days or until 02/25/2021 (Expiration date of EO), whichever is earlier.**
- If temporary seating is proposed in areas adjacent to travel lanes, adequate safety measures must be required and installed.

Applicant:

- Submit completed and signed permit application with all supporting documentation (Google maps identifying the business location, the area of the sidewalk and curbside parking spaces to be utilized, describing installations to be used such as awnings, etc.), traffic management devices/measures being implemented to enable curbside pickup operations without impacting highway operations or safety, seating plan, etc.
- Provide locations (Route and limits) where installations are proposed.
- Provide ADA Certification form, if required by the District Permit Engineer.
- Install, maintain and manage the installations as well as monitor and ensure compliance from businesses.
- Assign a liaison to coordinate and oversee the authorized activities under this permit. The liaison shall always be available to address any and all issues/requests associated with the temporary facilities.
- Ensure that no prohibited activities occur within the State Highway System right-of-way.
- Notify Caltrans representative at least 72 hours before installing the authorized temporary installations.
- All temporary installations (except shade structures such as canopies) must be removed from the sidewalk and stored indoors whenever the associated storefront is not in operation.
- Remove all temporary installations on the SHS within 2 calendar days after the end of the declared State of Emergency or earlier if deemed necessary by the Caltrans representative.