

ENCROACHMENT PERMIT SPECIAL PROVISIONS

TEMPORARY USE OF SIDEWALKS AND CURBSIDE PARKING AREAS IN STATE HIGHWAY SYSTEM RIGHT-OF-WAY FOR COVID-19 RELATED NON-TRANSPORTATION USE

All work permitted herein either by the local agency or its agents/contractors/businesses in their jurisdiction must comply with:

- The 2018 Caltrans Standard Specifications and Standard Plans (available at <https://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications>),
- The attached “Encroachment Permit General Provisions” (Form TR-0045) (available in Appendix K of Encroachment Permit Manual and can be accessed at: <https://dot.ca.gov/-/media/dot-media/programs/traffic-operations/documents/encroachment-permits/appendix-all-ada-a11y.pdf>),
- The “Stormwater Special Provisions for Minimal or No Impact” (Form TR-0400) (available at <https://dot.ca.gov/programs/traffic-operations/ep/ep-manual/>), and,
- The following provisions:
 1. The Permittee by accepting this permit accepts full and sole responsibility for all installations and associated claims and damages. The Permittee is solely responsible for all activities, acts, and/or omissions by its agents/contractors and businesses operating under or related to this encroachment permit.
 2. This temporary permit is to address the unique circumstances created due to the COVID-19 pandemic and in response to the March 13, 2020, COVID-19 State of Emergency declaration by the United States federal government and the proclamation of a State of Emergency regarding COVID-19 by the California Governor on March 4, 2020.
 3. This permit is non-transferable. Permittee must provide a copy of the permit to all businesses/contractors/agents working under this permit and those businesses/contractors/agents must have it at all time in their possession. Only the Permittee to whom this permit was issued and businesses/contractors/agents under the jurisdiction of the local agency is to perform the services authorized herein. This permit or a copy of it must be presented for inspection upon demand by any State Representative, or Law Enforcement Official.
 4. To help serve the public interest, Caltrans is only authorizing installations to facilitate physical distancing and other safety measures to prevent the spread of COVID-19 during the current State of Emergency.
 5. **This permit will expire on the date listed on the first page of this permit or at the end of the declared State of Emergency regarding COVID-19, whichever occurs first.**
 6. This permit authorizes:
 - a. Label 6 feet spacing on the sidewalk to enable physical distancing while entering restaurants or other business along State Highway:
 - i. Route XXXX between Street AAA (PM ____) and Street BBBB (PM ____)
 - ii. Route XXXX between Street AAA (PM ____) and Street BBBB (PM ____)
 - iii. Route XXXX between Street AAA (PM ____) and Street BBBB (PM ____)

- b. Post “No Parking” signs prohibiting curb side parking in existing curb side parking spaces. Necessary signs or other temporary traffic control devices in accordance with CA-MUTCD can be placed to enable curbside pickup for business along the highways and within limits listed above. The Permittee is responsible for ensuring the curbside pickup activities do not impact the safety or operations on the State Highway System. No temporary or fixed objects (tables, etc.) can be placed on sidewalk along parking spaces designated to assist or serve curbside pickup activities.
7. Temporary canopies can be installed to provide shade over sidewalk. They must comply with all of these conditions:
- a. Conforms to local building code.
 - b. Structurally adequate.
 - c. Overhang shall not extend closer than 24 inches horizontally from the curb face for those installed on sidewalk. Exceptions are in historical districts where overhangs are permissible to the curb face.
 - d. Preferred minimum vertical clearance from the sidewalk is 12 feet. A minimum 8 feet clearance is acceptable when local codes are satisfied.
 - e. Must not interfere with or obscure any traffic control device or part thereof, such as a traffic signal, traffic sign, etc.
 - f. the installations on sidewalk shall meet the requirements established for “Arcades” established in Section 501.3b of the Encroachment Permit Manual and
8. Markings on sidewalk(s) for physical distancing:
- a. Only non-permanent removable tape may be used to mark the 6-foot social distancing spacing on the sidewalk.
 - b. Size of the markings must be no larger than 12 inches by 12 inches.
 - c. Permanent markings using paint or other means are prohibited.
 - d. Markings must not be a tripping or slipping hazard.
 - e. When the markings are no longer required or when the State of Emergency ends, the markings must be removed.
 - f. Markings must not interfere with or obscure any traffic control device or part thereof. Markings must not resemble any traffic control devices.
 - g. Markings must be of plain solid color and must not include any messages, advertising, symbol, etc.
9. Commercial Activities:
- a. Businesses can be authorized to operate their commercial activities along their frontage. No entity shall trade/lease/rent or barter highway space.
 - b. Adequate safety measures must be implemented to protect all users (Commercial activities-related and traffic passing through, etc.) in the State Highway System right-of-way.

- c. Permittee shall provide adequate notifications to all impacted stakeholders regarding the closures and impacts (Including to the residents impacted by detour traffic).
- d. Authorized operating area may include temporary benches, tables, chairs or other seating, bike racks, and planting areas, but must not include any fixed objects.
- e. All installations must be heavy enough, or other measures be implemented, to ensure they do not move onto the travel lanes, highway users, or business properties, or obstruct the minimum required accessible path of travel on the sidewalk.
- f. Authorized operating area must be installed to 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>).
- g. The following signs, large and legible enough to be read easily by users, must be posted at the public seating areas: **"Smoking/Vaping is Prohibited"**.
- h. Hours of operation are per local jurisdiction approvals.
- i. Outdoor seating area can include signage designating the area for use by the business.
- j. Use of space for commercial activities is only allowed where wide sidewalks with excess space are available beyond required ADA clearance and in existing curbside parking spaces.
- k. 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>).
- l. Temporary outdoor dining permitted herein must comply with the following provisions:
 - i. 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.
 - ii. Smoking/vaping, marijuana, and/or marijuana-derived products shall not be advertised, sold, served, consumed/used, or allowed within the State Highway right-of-way.
 - iii. 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 weight of not less than 60 pounds.
 - iv. Outdoor music or speakers are prohibited.

- v. Outdoor misters and/or heaters are allowed with the appropriate fire, building, and safety requirements.
 - vi. Fencing, vertical shades, and windbreaks are not allowed.
 - vii. The outdoor preparation of food is prohibited at sidewalk dining areas.
 - viii. The presetting of tables with utensils, glasses, napkins, condiments, and the like is prohibited.
 - ix. All exterior surfaces within the sidewalk dining area shall be easily cleanable and shall be kept clean at all times by the Permittee.
- m. Temporary outdoor retail permitted herein must comply with the following provision:
- i. Use of the sidewalk or other designated areas for commercial activities along the frontage of the business can be authorized to be used for the presentation and sale of merchandise.
10. Temporary advertisement permitted herein must comply with the following provisions:
- a. Advertisement signs can be temporarily authorized to be installed and maintained by the businesses within the limits of their frontage.
 - b. ADA clearance shall not be impeded at any time.
 - c. Advertisement sign shall only be limited to the business and the services they provide. No other messaging or 3rd party advertisements are allowed.
 - d. Advertisement signs shall be A-frame sandwich boards, signs, posters or other form no larger than 24"x36".
 - e. Advertisements shall not include lighting, moving displays, music, or sounds of any kind.
 - f. The design of the advertisement shall not resemble traffic signs in style or in color.
 - g. The location of the advertisement shall not block the view of any traffic sign, signal, or traffic control device.
 - h. Advertisement shall be removed when associated business is not open for business.
 - i. Closure of travel lanes or full sidewalk is prohibited.
11. Notify Caltrans representative at least 72 hours before installing the authorized temporary installations.
12. All locations/businesses authorized to operate under this permit along with all installations and applicable safety measures must be approved by Caltrans prior to implementation. Additional locations or installations after the permit is issued must be submitted to and approved by Caltrans through a permit rider.
13. Appropriate and adequate care must be taken by the Permittee to comply with CDC and WHO guidelines with respect to COVID-19. Permittee is solely responsible for the health and safety of its employees and its patrons.

14. The Permittee is solely responsible for conducting an adequate inspection of the State Highway System Right-of-way, for determining the suitability for its intended use. The Permittee hereby accepts the State Highway System Right-of-way in its "AS-IS" condition, with all faults, both known and unknown, which would have been discovered in the course of a reasonable inspection, existing as of the date of the permit application submission.
15. Permittee is hereby advised that some of the items or works to be performed may require permits by various governmental agencies. Issuance of this permit by Caltrans does not constitute approval of work within the jurisdiction of those agencies.
16. Permittee is responsible to be in compliance with all applicable State and Local licensing and permitting requirements. Without which, this permit is null and void. Permittee must obtain all required applicable permits such as Zoning and/or Use Permit, Health Permit and Inspection, Fire Permit, business license etc., from the local regulating agencies.
17. The Permittee must comply with all local and State requirements and any relevant California Governor's Executive Orders or Presidential Orders. Permittee is responsible for any violation, penalty, enforcement action, corrective action, remedial action, and any other type of consequence resulting from the noncompliance with all applicable regulatory agencies/permits' requirements.
18. Operational decisions and/or emergency situations may require the Permittee to vacate the premises (stopping all vending).
19. Permittee must not operate any horns, sound amplification systems or other sound producing devices at any time. Permittee must not start bonfires or other open fires creating a fire hazard.
20. The Permittee is solely responsible for compliance with the Americans with Disabilities Act (ADA). Adequate clearance in accordance with Caltrans Design Information Bulletin 82 (DIB 82) must be maintained through the sidewalk to serve pedestrians. DIB 82 can be accessed at <https://dot.ca.gov/-/media/dot-media/programs/design/documents/dib82-06-a11y.pdf>.
21. All installations and facilities situated on sidewalks or interfering with pedestrians shall be provided with devices for pedestrian protection.
22. Parking spaces designated for ADA access cannot be blocked or used for temporary vending or advertising.
23. The encroachments on State Highway System right-of-way shall not 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. The encroachments shall not negatively impact highway operations or maintenance of State Highway System right-of-way.
24. All of the authorized installations and equipment shall be installed such that they do not interfere with the free flow of roadway users on travel lanes. Canopies or other shade structures installed shall be sturdy and at-least have 4' (4 feet) clearance from the travelled way.

25. The Permittee must ensure all objects placed in connection with the authorized activities do not create a tripping hazard or other hazard to any person or property.
26. All temporary installations (except shade structures such as canopies) must be removed from the sidewalk and stored indoors whenever the associated storefront is not open for business.
27. Permitted nighttime lighting fixtures, mirrors, reflectors, and all other installations, shall not present glare or negatively impact safety, including but not limited to the safety of highway users, motorists, bicyclists, and pedestrians, and any person legally using the State Highway System right-of-way.
28. 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.
29. Installations must not inhibit the visibility and sight distance at all entrances and exits.
30. The Permittee shall not construct nor place on the State Highway System right-of-way any improvement which would impair Caltrans' ability to maintain, operate, use, repair, or improve any part of the transportation facility in State Highway System right-of-way. The Permittee is responsible for promptly removing, at its sole cost and expense, any improvement which Caltrans identifies as a hazard to or impairment of a transportation facility.
31. The Permittee shall treat all businesses equally and any measures implemented by or on behalf of the Permittee on State Highway System must be fair and serve all businesses equally. The Permittee must handle and resolve any and all complaints. Nothing shall be attached to the travel way or highway facilities/structures (signs, sidewalk, poles, etc.) by bolt, screw or any other invasive connection type.
32. No signs are allowed to be affixed to any State-owned property, including but not limited to State-owned signs and sign posts. Permittee is responsible for removing all such signs posted within the State Highway System right-of-way.
33. Caltrans may revoke the permit at any time, for any or no reason. Common reasons for revocation could be violation of the terms of this permit, operational needs, or safety issues. Upon revocation, Permittee shall ensure the prompt removal of all encroachments and prompt restoration of the State Highway System right-of-way to its prior condition.
34. Adequate illumination of installations at nighttime shall be provided. All hook-ups and/or connections into any Caltrans-owned utilities are prohibited. The Permittee is expected to independently procure needed utility services and infrastructure like necessary temporary lighting fixtures, etc.
35. Permitted lighting fixtures, mirrors, reflectors, and supports must not present a glare or other safety hazard.
36. The Permittee shall 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 permit.

37. The Permittee is solely responsible for the objects (i.e., canopies, tables, chairs, benches etc.) and securing all object installations.
38. The Permittee and its agents, employees, representatives, and contractors shall be solely responsible for installing, operating, and maintaining the temporary installations authorized by the permit. The Permittee and its agents, employees, representatives, and contractors shall ensure that the objects placed within State Highway System right-of-way are properly serviced, maintained, and repaired.
39. Any traffic control required shall receive prior approval from the Caltrans representative. If Caltrans standard traffic control plans are not adaptable for the required traffic control needs, site-specific traffic control plans stamped and signed by a California Licensed Engineer shall be submitted along with a rider permit request, for review and approval prior to using such site-specific traffic control plans. Standard plans may be referenced and are available at <https://dot.ca.gov/programs/design/ccs-standard-plans-and-standard-specifications>.
40. All traffic control devices (signs, flagging, flags, PCMSs and other devices) shall conform to the requirements set forth in the latest California Manual on Uniform Traffic Control Devices (CA-MUTCD) and Caltrans Standard Plans and Specifications.
41. The Permittee shall monitor and maintain all traffic control devices for the entire duration of this permit. At least one person shall be assigned by the Permittee to provide full-time maintenance of traffic control devices.
42. No excavation or ground disturbance is allowed. All installations must be above-ground installations only.
43. The Permittee shall not attach or temporarily affix any item on any Caltrans facility or infrastructure, unless otherwise expressly allowed in this permit.
44. The Permittee is responsible for ensuring the sidewalk and curbside pickup areas in State Highway System right-of-way is free of trash, within the limits and locations authorized under this permit.
45. The Permittee must ensure all public areas are properly maintained and kept free of trash or nuisance.
46. Dumping or discharging into Caltrans storm drains is not authorized under any circumstances. Cardboard or other material sheets must be used to prevent grease, oils etc., from leaking onto the pavement.
47. The Permittee shall restore the State Highway System right-of-way to pre-existing condition, which includes the pickup, removal, and disposal of all litter, materials, and other items related to the Permittee's activities to Caltrans' satisfaction.
48. Upon completion of authorized activities under this permit, the Permittee shall provide the Caltrans representative with a completed "Notice of Completion" (Form TR-0128) (available at <https://dot.ca.gov/-/media/dot-media/programs/traffic-operations/documents/encroachment-permits/tr0128.pdf>).

49. All installations on the SHS shall be removed within 2 calendar days after the end of the declared State of Emergency or before the expiration of permit or earlier if deemed necessary by the Caltrans representative.
50. This permit may be revoked if the terms of the permit are breached and such breach is not corrected within a reasonable length of time after written notice of noncompliance has been given. In the event the permit is revoked, Caltrans may request the removal of the facility occupying the SHS Right-of-Way. The removal shall be accomplished by the responsible party in a manner prescribed by the Caltrans at no cost to the FHWA. An exception to facility removal is permitted when the improvements revert to the State upon termination of the agreement and Caltrans chooses to accept them.
51. Caltrans and authorized FHWA representatives have the right to enter the limits of authorized installations for the purpose of inspection, maintenance, or reconstruction of the highway facility when necessary.
52. The Permittee agrees to indemnify and save harmless the FHWA, from any and all claims, demands, damages, costs, liability, suits, or actions of every name, kind, and description.