

Allowance for Outdoor Seating Areas for Eating and Drinking Establishments Temporary Regulations

The Jefferson County Board of County Commissioners, pursuant to the authority under C.R.S. 30-28-121 adopts these Temporary Allowance for Outdoor Seating Areas for Eating and Drinking Establishments Regulations. These temporary regulations are necessary to quickly address the changing regulatory environment as a result of the public health orders being issued surrounding the COVID-19 pandemic and will allow businesses to modify their operations within unincorporated Jefferson County to comply with the public health orders and Jefferson County rules and regulations.

These temporary regulations will be valid until midnight on Monday, **September 7, 2020**, unless extended by the Jefferson County Board of County Commissioners. All improvements installed under this program must be removed no later than midnight on September 14, 2020.

These temporary zoning regulations shall apply to all eating and drinking establishments operating within unincorporated Jefferson County:

Definitions

Eating and Drinking Establishment: A retail establishment offering food, beverages, or alcoholic beverages for on-premises consumption.

Temporary Outdoor Seating Area: An area not currently approved for outdoor seating of an eating and drinking establishment, used to temporarily expand seating capacity of the eating and drinking establishment to operate in an outdoor setting adjacent to their business.

Hours of Operation

Outdoor seating areas opened under these temporary regulations must close by:

- 10 p.m.** on Sundays thru Thursdays; and
- 11 p.m.** on Fridays and Saturdays

Allowed Uses of the Temporary Outdoor Seating Area

Outdoor seating areas established under these temporary regulations can only be used for sit-down consumption of food or beverages or customer pick-up and carry-out of food and beverages.

Prohibited Uses of the Temporary Outdoor Seating Area

Temporary outdoor seating cannot be used for activities that would promote congregating, involve shared equipment, or amplify sound, including but not limited to:

- Live music
- Music over speakers
- Video monitors to display movies, sports, television shows, etc.
- Loudspeaker call systems
- Outdoor games
- Standing areas, except a waiting area for customers that follows social distancing guidelines is permitted.
- Generators
- Pets, except as provided in the Americans with Disabilities Act

Structures Allowed on or within the Temporary Outdoor Seating Area and Configuration Requirements

Only temporary structures are allowed in the temporary outdoor seating areas, these may include:

- Tents and shade structures:
 - Tents/shade structures with side walls and greater than 400 square feet require a permit from the local Fire Protection District.
 - Tents/shade structures without side walls and greater than 700 square feet require a permit from the local Fire Protection District.
 - Multiple small tents/shade structures located close together may count as a single larger structure, as determined by the local Fire Protection District.
- Tables, benches, chairs, temporary railings, and other temporary furnishings that are constructed of smooth, non-absorbent materials or finished in a manner that makes them smooth, non-absorbent and easily cleanable.
 - No food or drink preparation areas/fixtures are allowed in temporary outdoor seating areas due to health and sanitation concerns.
- If the applicant will serve alcohol in the temporary outdoor seating area, the outdoor seating area must incorporate a method to ensure alcohol does not leave the area. Examples include railings, freestanding delineator posts, traffic cones and planters.
- Any temporary electrical equipment and wiring must be listed for outdoor or all-weather use.
 - Any wiring that requires adding a circuit will require an Electrical Permit.
 - Any lighting installed must be shielded and downcast so as to not cast light onto adjacent properties.
- A single temporary banner sign of up to 50 square feet may be placed in the temporary outdoor seating area without a permit.
 - Note that existing regulations allow commercial properties to place up to 8 temporary ground signs of up to 8 square feet each without permits.

Limitations and Restrictions

- **All Public Health orders and guidelines must be followed including but not limited to all executive orders of the Governor as well as public health orders issued by the Colorado Department of Public Health and the Environment (CDPHE) and Jefferson County Public Health.**
- Eating and drinking establishments may not share temporary outdoor seating areas.
- The capacity/occupancy of the temporary outdoor seating area when combined with the capacity/occupancy of the indoor seating area under the then-current public health order may not exceed the original occupancy of the eating and drinking establishment.
- Written permission of the property owner to use the area proposed for the temporary outdoor seating area must be provided.
- Tents must be open on at least one side during hours of operation to allow adequate ventilation for health and safety concerns.
- Temporary outdoor seating areas may occur on hard surfaces such as concrete, pavement and pavers.

- Dust control measures must be implemented for unpaved parking areas where temporary outdoor seating areas are located.
- Temporary outdoor seating areas may also occur on grassy areas.
 - Any pest control measures applied in these areas must be done by a licensed pest control operator.
- Temporary Outdoor seating areas shall be kept clean, and any food or litter on the ground shall be cleaned up as soon as possible to minimize pests or wildlife.
- No American with Disability Act parking spaces may be used for temporary outdoor seating areas.
- The total amount of parking spaces converted to temporary outdoor seating area may not exceed 50% of the required amount of parking for the eating and drinking establishment.
- No fire department access or equipment shall be blocked or obstructed by temporary outdoor seating areas or other features. This includes emergency fire lanes, fire hydrants, fire department connections, fire alarm panel access, etc.
- Building entrances and exits shall not be blocked by any elements of the temporary outdoor seating areas.

Permits and Licenses

- Local Fire Protection Districts may have additional requirements or require additional permits. All applications will be forwarded to the local Fire Protection District for their notice. Some local Fire Protection Districts may require additional permits if the occupancy of the outdoor patio exceeds 49 people. It is the responsibility of the applicant to contact their local Fire Protection District prior to operating a temporary outdoor seating area.
- Any permanent improvements or modifications to existing structures may require Building Permits.
- Fences over 42 inches in height require a fence permit.
- Businesses that have a liquor license will need to submit additional documentation to modify their existing liquor license with the County and the State.

Submittal Requirements

- Temporary Outdoor Seating Area Permit Application
 - Point of contact information including name, address, phone numbers and email address
 - Number of restroom facilities and fixtures currently available
 - Number of restroom facilities and fixtures when meeting social distancing requirements
 - Location of additional toilet facilities, if provided, including temporary toilet and handwashing stations
 - Description of proposed outdoor seating, including:
 - Size of proposed outdoor seating area
 - Number of tables and indication of spacing to meet social distancing requirements
 - Occupancy of existing eating and drinking establishment (pre-COVID)
 - Occupancy of indoor portion of eating and drinking establishment with social distancing measures in place
 - Proposed occupancy of the temporary outdoor seating area

- General description of temporary outdoor seating area
 - Dust mitigation plan if proposed for unpaved surfaces, other than grassy areas
 - Acknowledgment of limitations related to public health orders
 - Identification of wastewater treatment used (Public Sanitation/Septic System)
 - Details of method to ensure alcohol does not leave the area. To include height of any fencing/railings/etc., composition of materials, and explanation of how alcohol will be controlled to ensure it does not leave the premises.
- Site Plan
 - Vicinity map (Google Maps or similar)
 - Location of proposed temporary outdoor seating area
 - Diagram of the currently liquor-licensed premises
 - Layout of proposed temporary outdoor seating area, with dimensions:
 - Tables, tents, etc.
 - Proposed route of servers to temporary outdoor seating area and kitchen
 - Location of existing emergency access
 - Location of fire hydrants and fire extinguishers
- Parking Plan
 - Existing parking spaces
 - Proposed parking spaces
 - ADA spaces clearly identified
- Liquor License Modification Application (Payment should be made directly to the State)
- Written permission from property owner to use space for temporary outdoor seating area
- Additional submittal items may be required to further protect the health, safety, welfare of the public as the COVID-19 situation changes and/or as the County receives feedback from fire departments, health officials, public, and other government agencies.