



# CITY OF MILPITAS

PLANNING DEPARTMENT

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA 95035-5479  
GENERAL INFORMATION: 408-586-3000 [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov)

DATE: September 1, 2021

FROM: City of Milpitas Planning Department

RE: Extended Temporary Outdoor Dining Program

Dear Milpitas Restaurant Owners:

During the COVID-19 pandemic, the City of Milpitas created a no-fee Temporary Outdoor Dining Registration Program to support local restaurants and provide opportunities for Milpitas residents and visitors to get out of their homes and enjoy mingling in the community again. Many local restaurants registered with the City and set up safe outdoor dining areas for their customers on a temporary basis.

In July, the City extended the Outdoor Dining Registration Program through September 30, 2021. Participating restaurants must continue to comply with State and local safety regulations, as well as the City's Guidelines for Outdoor Dining, outlined in the attachment to this letter. The Extended Outdoor Dining Registration Program will end on September 30, 2021.

The City intends to implement a new program in early 2022 to allow permanent outdoor dining. This new program will require changes to the City's Zoning Ordinance as well as input from the City Council and the community, so it will take a few months to develop. In the meantime, local restaurants that wish to continue outdoor dining operations after September 30th must submit a new registration form to the Milpitas Planning Department. The registration form is available at: [www.ci.milpitas.ca.gov/planningdepartment](http://www.ci.milpitas.ca.gov/planningdepartment). Restaurants that do not submit the new form must stop outdoor dining operations and remove all temporary improvements after Sept. 30, 2021.

If you have questions about the information in this letter, please call 408-586-3279 or email [outdoor.dining@ci.milpitas.ca.gov](mailto:outdoor.dining@ci.milpitas.ca.gov). We appreciate the opportunity to work with you to extend outdoor dining options in Milpitas through September 30, 2021, and beyond.

Thank you,

*Ned Thomas*

Ned Thomas  
Planning Director  
City of Milpitas  
455 E. Calaveras Blvd., Milpitas, CA 95035

## **City of Milpitas Guidelines for Extended Outdoor Dining Through September 30, 2021**

The City of Milpitas established a Temporary Outdoor Dining program in 2020 to help local restaurants survive financially during the COVID-19 pandemic. This program allowed the limited use of public sidewalks and parking areas for outdoor dining on a temporary basis. This program officially ended on June 15, 2021, with the lifting of the State and Local COVID-19 health orders.

To support local Milpitas restaurants, the City has extended the outdoor dining program through September 30, 2021. Restaurants participating in the extended program must be registered with the City of Milpitas Planning Department. The current program will end on September 30, 2021.

For those restaurants that want to continue outdoor dining on a more permanent basis after September 30, 2021, the City will develop a new program with input from the City Council and members of the public. Restaurants interested in participating in this new program must submit a pre-application 'Interest Form' to the Milpitas Planning Department before September 30, 2021. This will help the City determine the level of interest in the new program and how to proceed.

If the restaurant owner does not submit a preliminary application by September 30, 2021, the restaurant must cease operation of any and all temporary outdoor dining areas created over the past year and remove all tents, tables, chairs, umbrellas, safety barriers, and other equipment and furnishings from the area. Through September 30, 2021, local restaurants must comply with the following Guidelines for Outdoor Dining:

1. The restaurant owner or manager must obtain written authorization from the property owner for the use of private sidewalks or other areas for outdoor dining. In general, outdoor dining areas should be located on sidewalks or patio areas immediately adjacent to the primary entrance to the restaurant. The specific location of the outdoor dining area shall be shown on a detailed map or diagram submitted with the Extended Outdoor Dining application.
2. Tenants in shopping centers with multiple restaurants that wish to participate in the Extended Outdoor Dining program must coordinate with the property owner or manager and other tenants to equitably allocate available sidewalks and or parking areas for outdoor dining. The restaurant owner or manager is responsible for this coordination.
3. Outdoor dining will be considered only where adequate parking is available to accommodate full indoor capacity. The Planning Department will use minimum parking requirements in the Zoning Ordinance and the availability of shared parking to determine the adequacy of parking.
4. Parking areas immediately adjacent to a restaurant (head-in parking) will be considered on a case-by-case basis. See Guideline No. 3 above. The applicant is responsible for identifying available parking areas and providing the necessary parking calculations.
5. Outdoor dining areas must comply with ADA access requirements. A minimum four-foot (4') wide path of travel shall be maintained along all pedestrian walkways from the parking lot or public right-of-way to all public building entrances.
6. Tables, chairs, umbrellas, and other equipment and furnishings shall be located in a manner that does not obstruct the entrance to any building or fire safety equipment, impede the flow of pedestrian or vehicle traffic, or create a hazardous condition (such as a tripping hazard).
7. Substantial safety barriers such as fences, landscape planters, decorative concrete barriers, or similar materials shall be installed between the outdoor dining area and any adjacent

areas where vehicles circulate. Stanchions, retractable belts, small plants, or screens do not qualify as a *substantial* safety barrier.

8. The Milpitas Fire Prevention Division shall review and approve all tents, shelters, canopies, or coverings used for outdoor dining in accordance with current Fire Code regulations. Fire permits and fees may be applicable for temporary structures.
9. No furniture, fixtures, tents, safety barriers, or equipment shall be permanently affixed to any sidewalk or parking area.
10. Outdoor storage and/or preparation of food or beverages are not allowed.
11. Access to indoor restrooms must be provided; portable outdoor toilets are not allowed in conjunction with outdoor dining.
12. Operating hours for outdoor dining areas shall be consistent with indoor operating hours.
13. Live entertainment and all forms of amplified sound are prohibited in conjunction with outdoor dining.
14. Restaurant owners and managers shall maintain the cleanliness and appearance of all outdoor dining areas.
15. Each restaurant may post one sign with a maximum area of six (6) square feet in the outdoor dining area. The sign shall be limited to the restaurant's name and logo only.
16. Restaurant owners or managers must coordinate with the California Department of Alcoholic Beverage Control (ABC) regarding alcohol sales in conjunction with outdoor dining. In early 2021, ABC determined that special COVID-19 provisions should remain in place until December 31, 2021. Please see ABC's *Eighth Notice of Regulatory Relief* for additional details. The notice is available at: <https://www.abc.ca.gov/eighth-notice-of-regulatory-relief/>.

If you have questions about any of the information in this letter, please call 408-586-3279 or email [outdoor.dining@ci.milpitas.ca.gov](mailto:outdoor.dining@ci.milpitas.ca.gov). We appreciate the opportunity to support our local businesses.

Thank you!



## Outdoor Dining Program Interest Form

Coordinated by the Planning Department

Phone: 408-586-3279

455 East Calaveras Blvd. Milpitas, CA 95035

The City of Milpitas will develop a new Outdoor Dining program on a permanent basis after September 30, 2021. This new program will include a formal application and fee. Milpitas restaurants interested in participating in the new program must submit a completed copy of this Interest Form to [outdoor.dining@ci.milpitas.ca.gov](mailto:outdoor.dining@ci.milpitas.ca.gov) before September 30, 2021, to keep their outdoor dining open after September 30, 2021, and be included in the new program. City staff will contact interested restaurants when more details about the new program are available. For now, we only need to know of your interest via this form.

### Restaurant Information

Restaurant Name: \_\_\_\_\_ Restaurant Phone: \_\_\_\_\_

Property Address (Including Unit #): \_\_\_\_\_

Restaurant Owner/Contact Person Name: \_\_\_\_\_

Email Address: \_\_\_\_\_ Owner Cell Phone: \_\_\_\_\_

### Property Owner Information

Property Owner/Shopping Center Name: \_\_\_\_\_

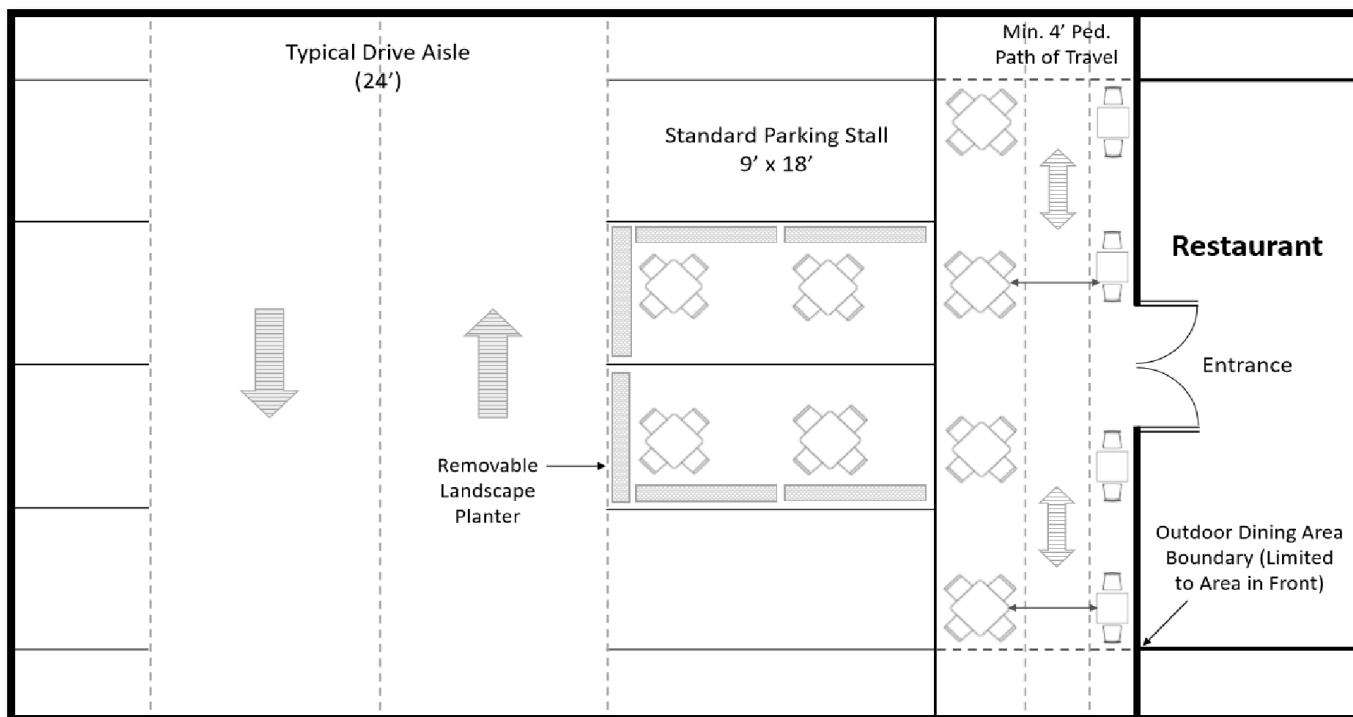
Email Address: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

### Description of Outdoor Dining and Operations

In the box below, please provide basic details about your outdoor seating area and how the dining operations will be consistent with the Milpitas Outdoor Dining Guidelines, as illustrated in the diagram on page 2.

<b>To Be Completed by Applicant:</b>	
Total Outdoor Dining Area (sq. ft.): _____	Approved Occupancy (indoor): _____
Total Outdoor Seating: _____ tables/_____ chairs	Number of Employees (per shift): _____
Total Parking Spaces Available to Restaurant: _____	Is Parking Shared with Other Businesses? <input type="checkbox"/> Yes or <input type="checkbox"/> No
Hours of Operation for Outdoor Dining: _____ to _____	ABC License? <input type="checkbox"/> Yes or <input type="checkbox"/> No License Type: _____
<b>Brief Description of Outdoor Dining Area and Operations (location, number of seats, types of safety barrier, etc.)</b>	

The diagram below illustrates the minimum requirements for ADA access and path-of-travel in outdoor dining areas. All restaurants shall set up their outdoor seating areas and operations to meet these basic requirements.



A limited number of head-in parking spaces located immediately adjacent to a restaurant may be considered for temporary outdoor dining if no other options are available. Each restaurant shall maintain the minimum number of parking spaces required for all available indoor and outdoor seating. Restaurant seating shall not exceed total seating capacity.

Restaurant owners proposing to convert parking spaces into outdoor dining area must submit a diagram or Google map with their application indicating the location and number of parking spaces to be used for outdoor dining. Adequate safety barriers (removable walls, K-rail, or landscape planters) must be installed between the dining area and any drive aisle.

The use of tents, temporary shelters, or coverings for outdoor dining shall require review and approval by the Milpitas Fire Prevention Division in accordance with current regulations and fees.

### Signature/Authorization

By signing below, I hereby certify the following:

- The information provided on this form is true and correct.
- I have read and agree to comply with the City of Milpitas Outdoor Dining Guidelines.
- I certify that the Property Owner listed above has reviewed my plans and granted permission to create or expand a temporary outdoor dining area on the subject property.
- I understand the City may inspect the outdoor dining area at any time to enforce compliance with the above provisions.
- I acknowledge that the City may require the outdoor dining area to be closed if it is detrimental to the health, safety and welfare of the general public.
- I understand that alcohol may be sold to patrons in conjunction with a meal but may not be sold independently. The California Department of Alcoholic Beverage Control (ABC) has additional information at: <https://www.abc.ca.gov>

Restaurant Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_