



# Application Guidebook



March 2021

# CONTENTS

**About.....3**  
**Definitions .....4**  
**Process Overview: Public Right-of-Way.....5**  
**Process Overview: Private Property .....6**

## REGULATIONS

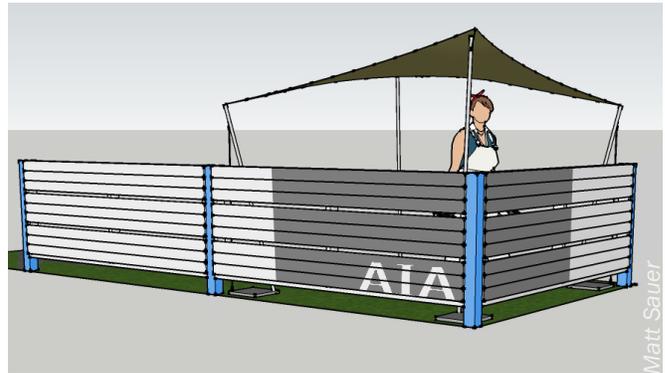
**Eligible Applicants .....8**  
**Site Selection .....9**  
**Public Health and Safety .....10**  
**Liquor Permits.....11**  
**Design Standards.....12**

## PROCESS AND PROCEDURES

**Application .....16**  
**Review and Approval .....19**  
**Installation .....19**  
**Operation and Maintenance .....20**  
**Evaluation & De-Installation .....20**

## APPENDIX

**Application Checklist .....22**  
**Application Form: Public Right-of-Way .....23**  
**Application Form: Private Property .....24**  
**Permission Letter Template .....26**  
**Terms and Conditions .....27**  
**Exhibit A: Restaurants and Bars.....35**



Matt Sauer



Matt Sauer

## CONTACT

### For public right-of-way application questions:

Joe Weinel  
 Chief Engineer  
 Bureau of Design Engineering  
 Division of Civil Engineering  
 Department of Public Works  
  
 (937) 333-4218  
 joe.weinel@daytonohio.gov

### For private property installation questions:

Carl Daugherty  
 Zoning Administrator  
 Zoning Administration  
 Department of Economic Development  
  
 (937) 333-3903  
 carl.daugherty@daytonohio.gov

# ABOUT

## About this guidebook

The City of Dayton's **Pop-Up Patio Application Guidebook** will lead applicants through the application process for authorization to install a temporary patio, parklet, or pedlet both within the public right-of-way or on private property. This guidebook provides an overview of the program, regulations, process, procedures, terms and conditions, and design best practices for expanding or creating temporary outdoor seating areas. Business owners, property owners, and other potential applicants are encouraged to read this guidebook in advance of submitting an application.

Many thanks to Public Health Dayton Montgomery County and Downtown Dayton Partnership for their guidance and contributions to the design of this program.

## About the program

Temporary patios, parklets, and pedlets are creative and cost-effective ways to add outdoor seating as businesses make changes to meet new social distancing requirements. This program was developed as a direct response to the COVID-19 crisis. Concepts included in this guide offer potential solutions for local businesses as they look for ways to spread out tables and customers.

The concept for this Pop-Up Patio program grew from the tradition of Parklets. Parklets are gathering spaces that offer public seating accessible by all. In the City of Dayton's program, the focus will be on creating additional private seating areas managed and maintained by the applicant businesses. Pop-Up spaces are not intended as one-time event spaces, large gathering opportunities, or parties. Rather, they are intended to support local businesses as they seek to recoup lost capacity due to social distancing requirements.



Pop-up Patios may be located on the sidewalk or in an existing parking lot, parklets and pedlets are located in the parking lane adjacent to the curb – designed as an extension of the sidewalk.

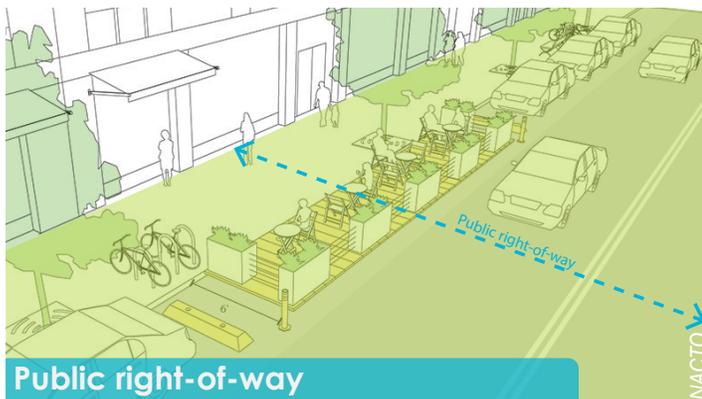
The City supports business' use of temporary and low-cost materials to quickly install a temporary patio, parklet or pedlet; however, all materials must meet the design standards laid out in this guidebook. Each application will be reviewed individually and will allow for the unique situations found at each of our unique business locations.

## Temporary Patios on Private Property

The City is allowing businesses to temporarily expand or create outdoor seating areas on private property. Interested businesses must follow the application process outlined on page 6. Proposals will be reviewed by the City's Zoning Administrator, Carl Daugherty, with the highest degree of flexibility including the waiver of parking minimums for the duration of this program. Prior to installation, businesses must receive a zoning certificate from the Zoning Administrator.

Applicants are encouraged to review and follow the design guidelines included in the Temporary Patio section of this guidebook. Terms and Conditions for temporary patios installed on private property are included in the Appendix.

# DEFINITIONS



## Public right-of-way

An easement (privilege or right) for public travel. In our cities, public right-of-ways take the form of sidewalks, streets, alleys, multipurpose paths, and other public spaces.

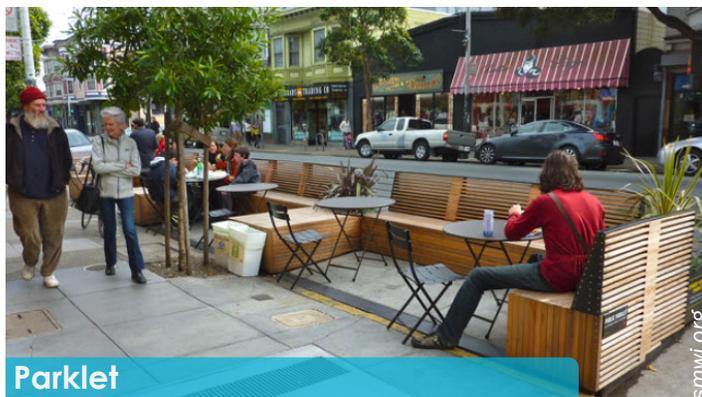
## Temporary Patio

New or expanded seating areas installed on the public right-of-way (sidewalks or in parallel parking spaces) or in a private parking lot.



## Parklet (Platform Cafe)

Seating platforms that convert curbside parking spaces (or public right-of-way) into commercial dining space.



## Pedlet

Pedlets are public platforms that convert curbside parking spaces into safe, pedestrian walkways. These semi-permanent installations provide access around expanded or new patios installed on the sidewalk.

## Temporary

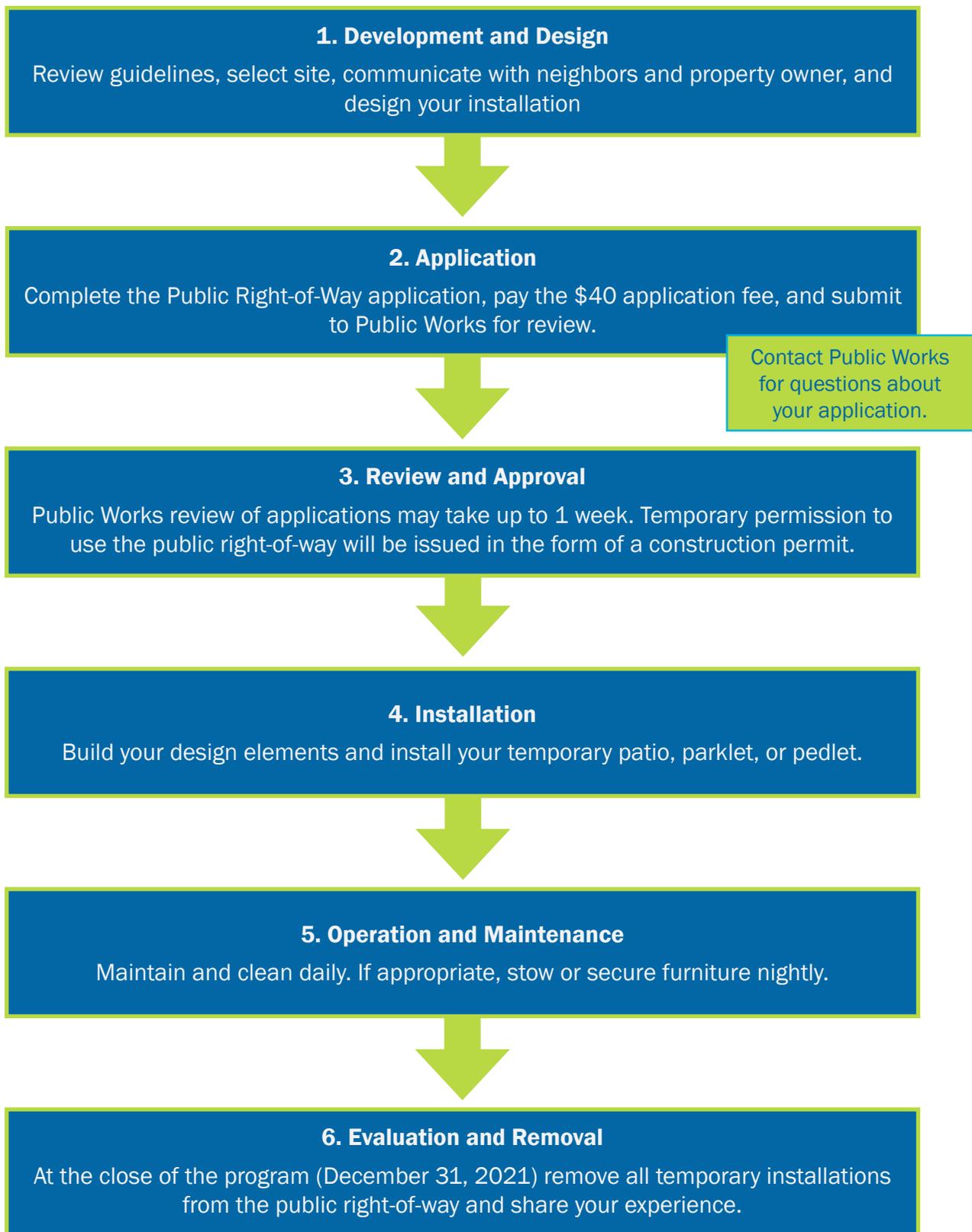
When this guidebook references installations as “temporary” it means any patio, parklet, or pedlet would be removed by December 31, 2021.



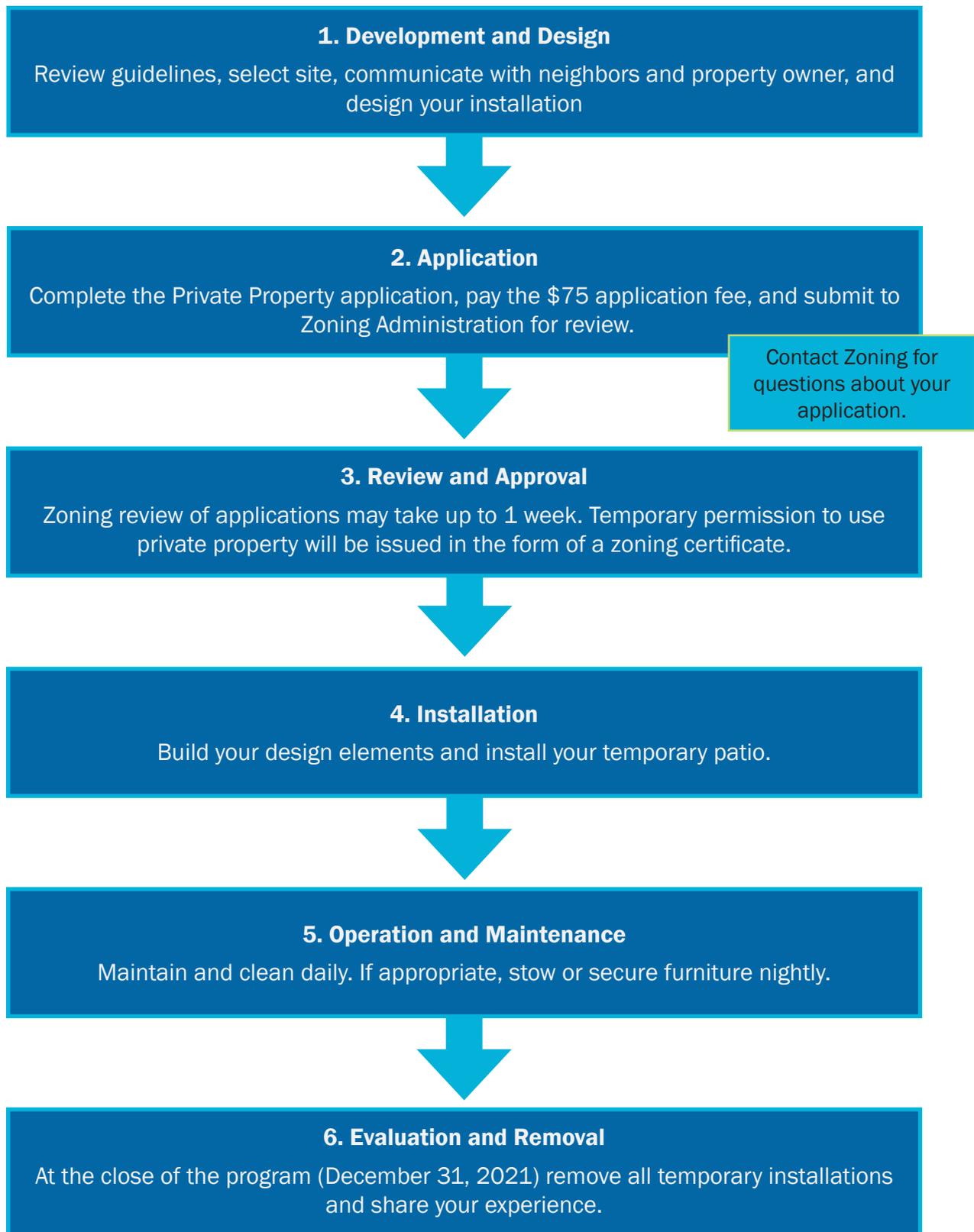
## Permanent

When this guidebook references installations as “permanent” it means any patio, parklet, or pedlet would remain in place after December 31, 2021.

# PROCESS OVERVIEW: PUBLIC RIGHT-OF-WAY



# PROCESS OVERVIEW: PRIVATE PROPERTY





# REGULATIONS

# ELIGIBLE APPLICANTS

Eligible applicants must have the organizational capacity to manage the installation and maintenance of a new or expanded outdoor space.

## Eligible applicants may be, but are not limited to:

- Ground-floor business owners
- Property owners
- Non-profit and community-based organizations
- Special service districts
- Others on a case-by-case basis

## Roles and Responsibilities

Applicant Responsibility	City Responsibility
<ul style="list-style-type: none"><li>• Application submission</li><li>• Design</li><li>• Letters of support (if applicable)</li><li>• Installation and/or construction</li><li>• Maintenance</li><li>• Liability</li><li>• For parklets and pedlets, installation of necessary traffic devices (wheel stops, flexible bollards, traffic/parking signage or markings)</li></ul>	<ul style="list-style-type: none"><li>• Program management</li><li>• Application review</li><li>• Design review and approval</li><li>• Permit/certificate issuance</li><li>• Site inspection</li><li>• Oversight and enforcement</li></ul>

# SITE SELECTION

In order to ensure the safety of all users, applicants should carefully consider the best location for each different type of installation. The City recognizes that every business location is different and will require tailored site plans and special accommodations. We will review every application and site plan individually to ensure adequate access remains around existing street lights, street trees, planters, etc. and to ensure pedestrians can pass by easily.

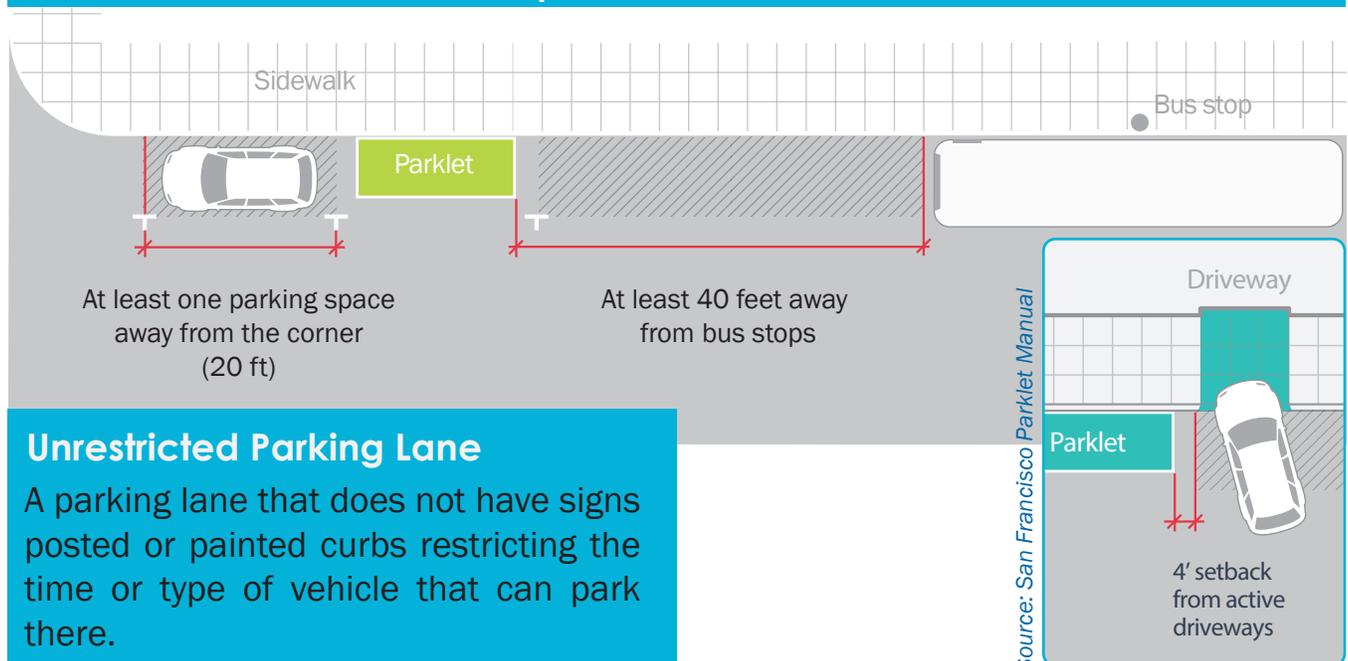
## All sites must meet the following requirements:

- Not located within a residential area (business must be in a commercial-zoned area)
- Does not block access to public utilities, waste collection receptacles, hydrants, alleys, manhole covers, ADA parking spaces, or driveways
- If in the public right-of-way, the installation must fit within the applicant's property boundaries or frontage
- Not exceed 2,500 square feet in total area.

### If proposing a parklet or pedlet:

- Located in an unrestricted parking lane, parallel to the curb edge, adjacent to the sidewalk
- Does not block existing street drainage patterns
- Located at least one 20' parking space away from the nearest intersection
- Cannot occupy more than 4 parking spaces
- Cannot be located in or within 40' of a bus stop
- Cannot be located on streets with steep slopes
- Include a 3- to 4-foot inner buffer when adjacent to another parking space (see diagram on p 11)

## Corner Locations and Bus Stops



### Unrestricted Parking Lane

A parking lane that does not have signs posted or painted curbs restricting the time or type of vehicle that can park there.

# PUBLIC HEALTH AND SAFETY

## Public Health

All applicants with the desire to install outdoor seating areas in support of a restaurant operation must meet the Ohio Uniform Food Safety Code including building code compliance, sanitation, solid waste disposal, food and equipment storage, and dogs in outdoor dining areas. Prior to receiving liquor permit approvals, business owners must contact Paul Scaglione, Supervisor Bureau of General Services at Public Health - Dayton & Montgomery County (pscaglione@phdmc.org or 937-224-3790).

Outdoor dining must also comply with all items under the State of Ohio Governor's Dine Safe Order which can be downloaded from this site: <https://coronavirus.ohio.gov/static/publicorders/Directors-Order-Dine-Safe-Ohio.pdf>.

The intent of the Pop-Up Patio Program is to help our business community recoup lost internal capacity by providing a streamlined permitting process for exterior seating and retail spaces. The program is not intended to support large exterior party venues or to accommodate large gatherings. Any application or proposal that violates this intent will be denied approval.

The City of Dayton will work with our local restaurants to address individual concerns, but any applicant found to be in knowing violation of these safety regulations will be required to close their temporary patio or parklet.

## Public Safety

Site selection is a crucial element in ensuring the safety of installations within the public right-of-way. For the purposes of the City of Dayton's program, parklets and pedlets must include the installation of vertical elements or barriers such as planters, railings, cables, etc. to help distinguish the seating or pedestrian space created by the parklet or pedlet from the moving and parked car traffic on the street. Reflective elements and wheel stops are required on the corner posts around the perimeter of installation in the parking lane of the street.

Vertical,  
reflective  
elements

Wheel stops  
bolted to the  
pavement



# LIQUOR PERMITS

Restaurant and bar owners who wish to serve alcohol in their expanded or new outdoor seating area must obtain the required state liquor license approvals. The permit holder should contact the Division of Liquor Control, Department of Commerce's Superintendant and Chief of Licensing Section at (614) 644-9201 or [web.liqr@com.state.oh.us](mailto:web.liqr@com.state.oh.us) for more information.

# DESIGN STANDARDS

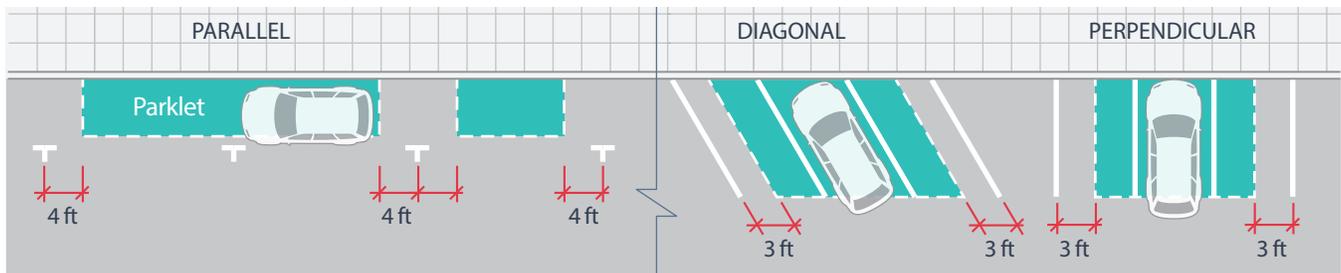
The City supports the use of temporary or low-cost materials to create temporary pop-up patio spaces; however, all materials must improve the pedestrian experience in the public right-of-way. Streetscapes are our City's living room, and all pop-up spaces must be visually pleasing and fit within the context of their environment. If an applicant wants to propose a permanent installation, additional design standards will apply.

## All installations shall:

- Have a barrier, fence, or perimeter enclosure no higher than 3 feet to define the space.
- Utilize materials or elements that provide a sense of enclosure or create a boundary around the installation (planters, barrels, stantions, etc.)
- (If using rope or chain) Utilize bright colors to help low vision pedestrians see thin elements.
- Install rope, chain or lights no lower than 2' off the ground to prevent tripping hazards.
- Design electrical connections to buildings that do not impede pedestrian traffic.
- Not connect to City light poles.
- Place elements that cross or sit perpendicular to the walking path of the sidewalk no greater than 2' apart.

## In addition to the above, all parklets and pedlets shall:

- Have reflective vertical elements that make them visible to traffic, such as flexible posts or bollards.
- Be buffered by a minimum of 4 feet from adjacent parallel parking spaces and 3 feet from adjacent diagonal or perpendicular parking spaces using a wheel stop.
- Have a minimum of a 1-foot buffer space from the edge of the parking lane or 13 feet from the nearest lane line.
- Have a flush transition at the curb to permit easy access for wheelchairs or others with mobility issues and to avoid any tripping hazards.
- Have a surface that is constructed of a slip-resistant material that has a minimum load bearing weight of 100 pound per sq ft.
- Utilize barriers such as planters or railings to protect the user.
- Maintain clear, unobstructed sightlines to and from the street
- Be ADA compliant (refer to the ADA's website for all requirements)
- Not block curbside drainage
- Provide sidewalk-facing edges that are open to pedestrians
- Be constructed of durable, quality materials



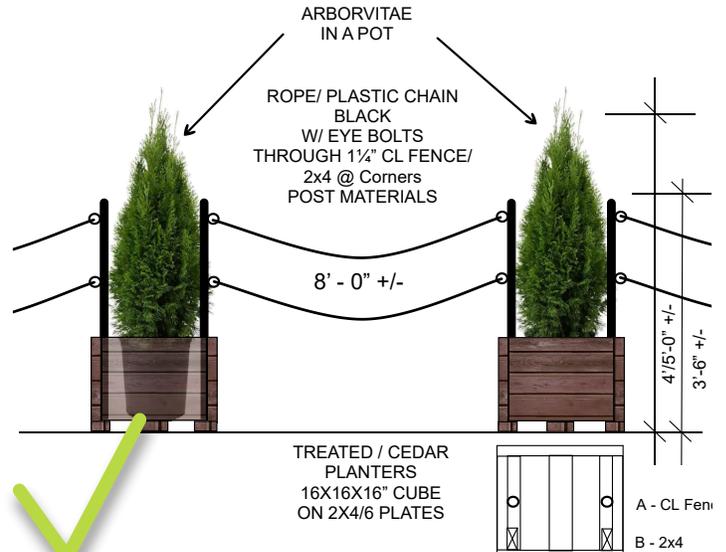
Source: San Francisco Parklet Manual

## Temporary Patios

Temporary patios may be constructed out of simple and mobile materials to allow easy set-up and tear-down. However, materials must be stable (not easily knocked over), create a sense of enclosure for the outdoor area, and look nice.

For more examples of how to create modular units or repurpose other materials to create barriers check out the *Tactical Urbanist's Guide to Materials and Design* (free to download here: [tacticalurbanismguide.com](http://tacticalurbanismguide.com))

Concrete or water filled jersey barriers shall not be used to construct temporary patios within the public right-of-way.



Planter boxes combined with vertical posts, small plants, and a simple chain reduce the costs for materials



Planter boxes provide visual interest while marking the boundary of a space



Barrels provide stable vertical elements combined with simple rope to mark the boundary of an outdoor space



Reusing materials and sprucing them up (like the pallets shown) can provide a cheap way to create fencing

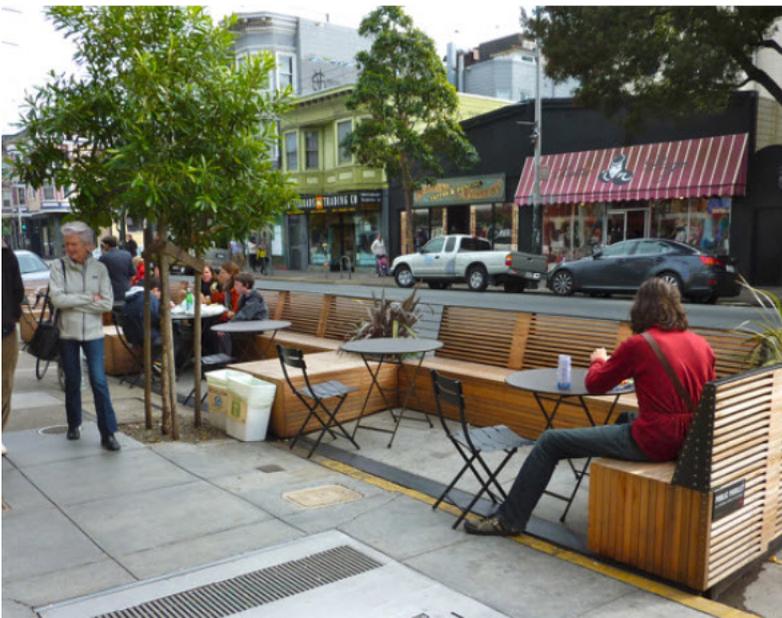


Jersey barriers are not permitted.

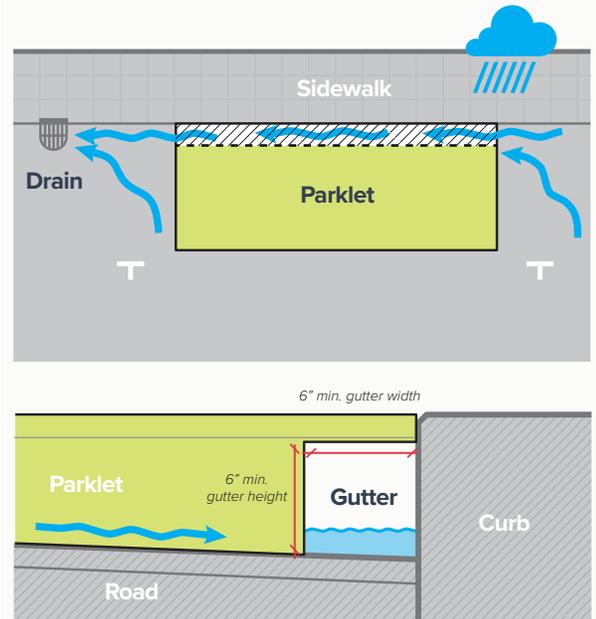
## Parklets and Pedlets

Parklets and Pedlets need to be constructed out of more durable and stable materials than temporary patios. These platforms must support 100 Lbs per square foot, be level, not impede the flow of stormwater, and connect to the curb. Parklets and pedlets must include vertical elements that alert vehicles to their presence and include materials that create some enclosure around the perimeter (and also look nice).

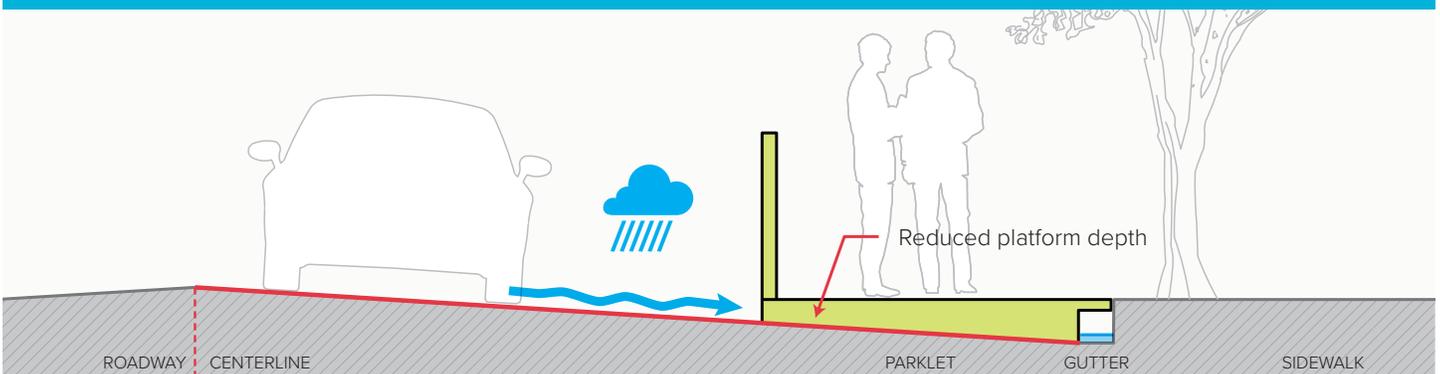
For more examples for how to create a parklet, visit the National Association of City Transportation Officials' (NACTO) Parklets guide online (free to access here: [Parklets](#))



### Close-up of drainage allowance



### Illustration of platform design and stormwater flow



Source: *San Francisco Parklet Manual*



# PROCESS AND PROCEDURES

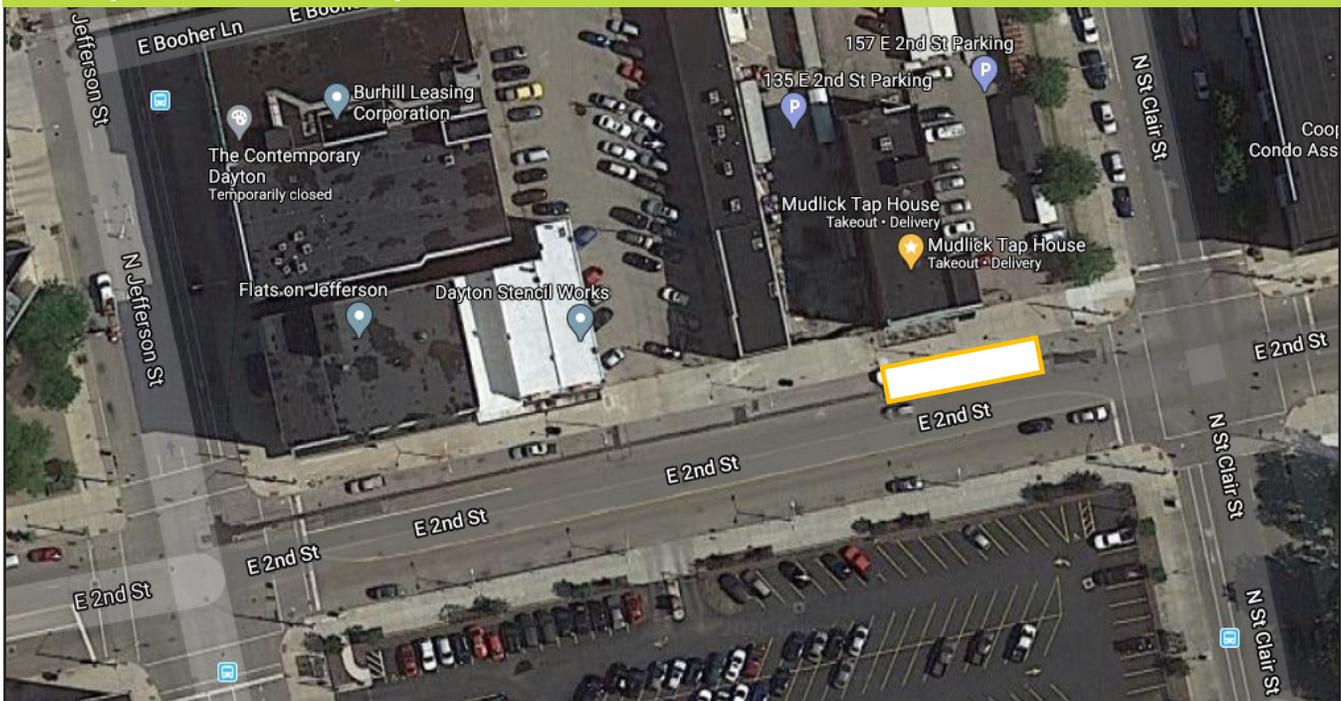
# APPLICATION

The City of Dayton's Department of Public Works will review all applications for pop-up patio installations located within the public right-of-way while the Zoning Division will review applications for temporary patios located on private property.

## Applications shall include:

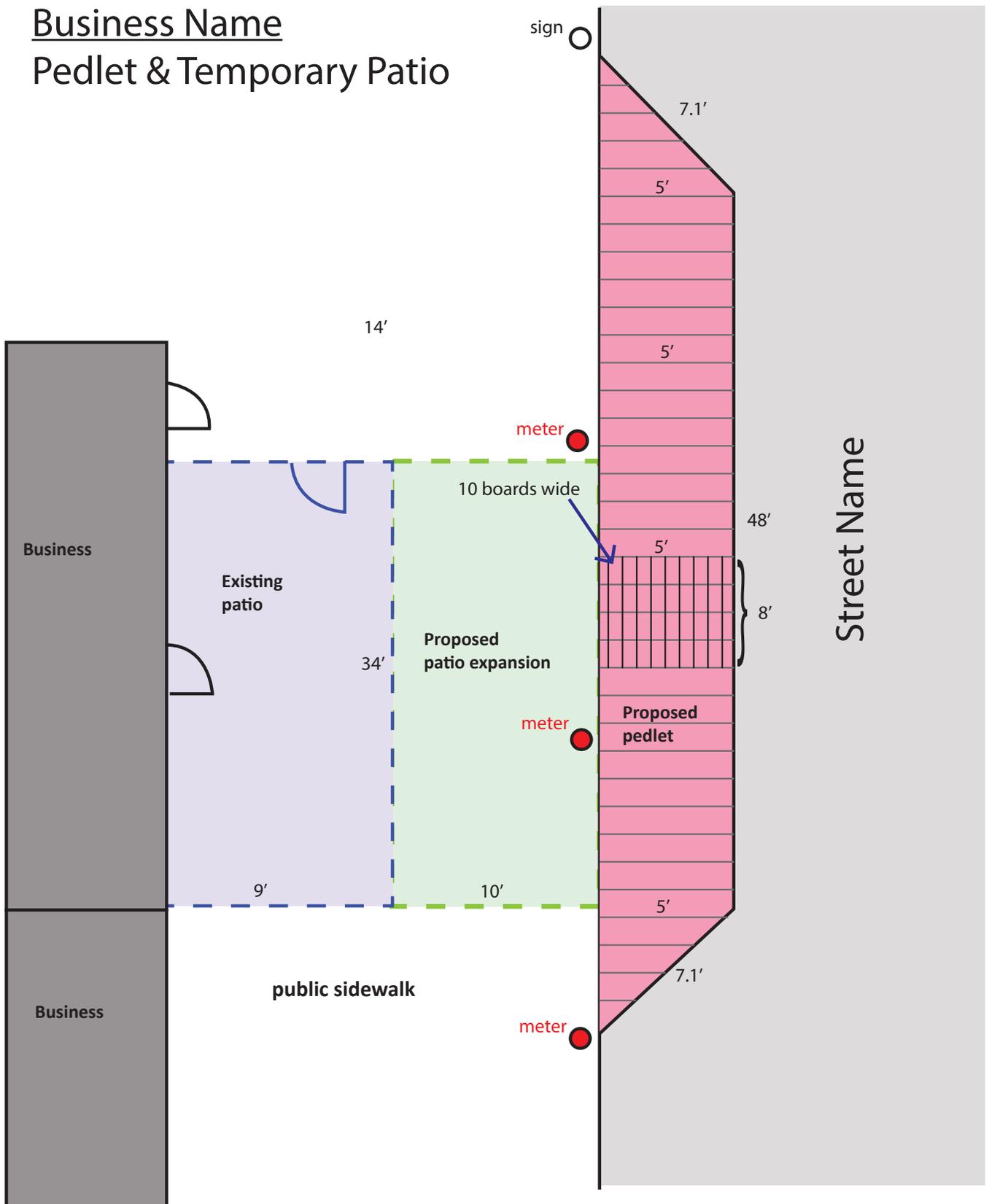
- Completed application form (See Appendix)
- Payment of a one-time application fee of either \$40 (public right-of-way installations) or \$75 (private property installations) made payable to the "City of Dayton"
- Adjacent address and photographs of proposed location
- A map showing the installation's location (see example below)
- A scaled drawing showing the design of the installation (see example site plans on following pages), location of existing signs, waste containers, and meters
- Proof of permission from the property owner (see letter template in the Appendix)
- If a site plan extends past the applicant's property boundaries or business frontage, proof of support from neighboring businesses
- Pictures or drawings that illustrate the materials to be used in the installation
- Brief description of operations including if alcohol sales will occur and hours of operation
- Proof of liability insurance
- Maintenance Plan (See maintenance checklist example on page 17)

## Example location map



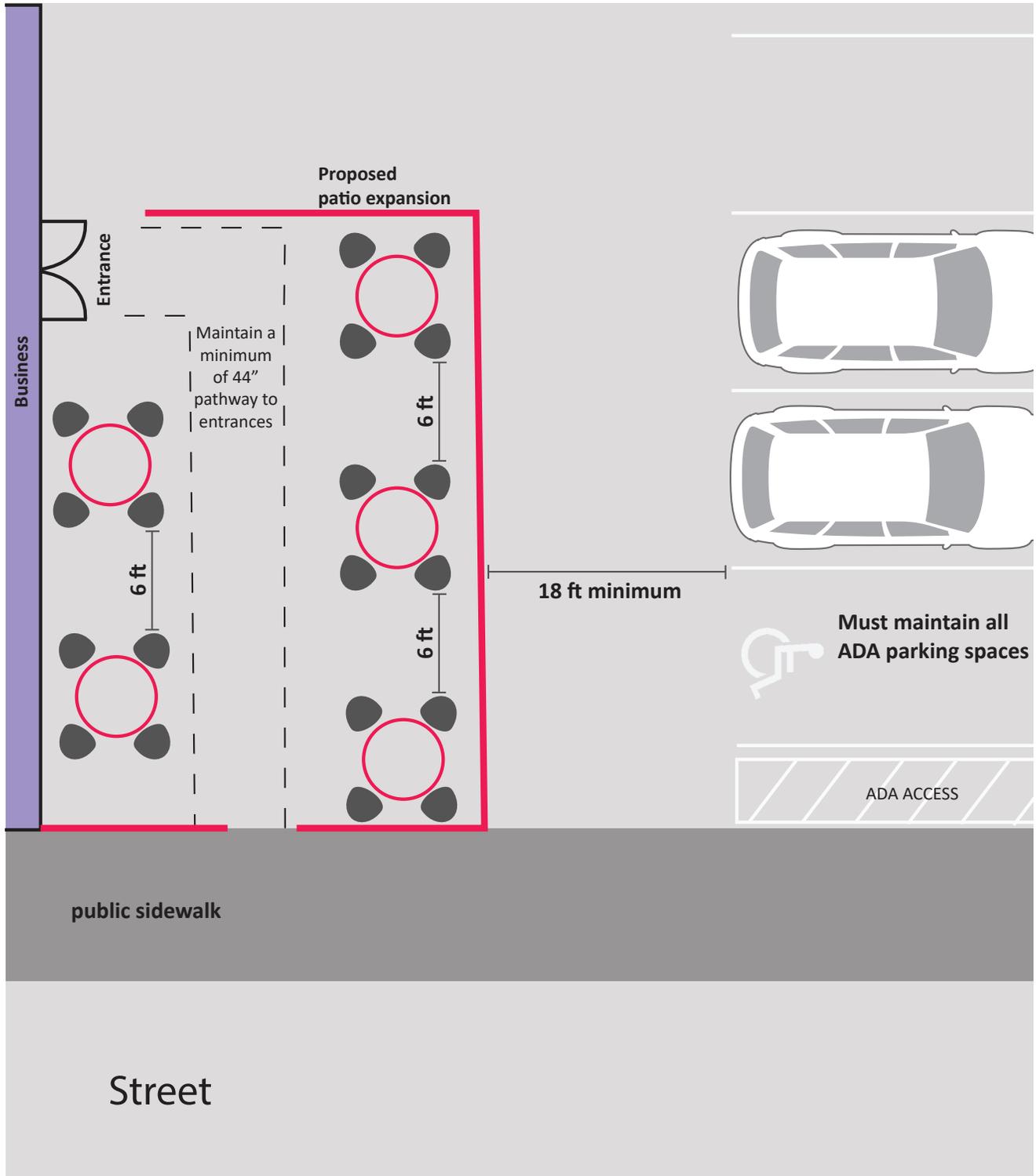
Example site plan: Public Right-of-Way

Business Name  
Pedlet & Temporary Patio



Business Name

Private Temporary Patio



## REVIEW AND APPROVAL

The City of Dayton's Public Works Department and Zoning Division will review applications to:

- Determine if the application is complete.
- Determine if the application meets all requirements.
- Review individual aspects related to the specific location and streetscape elements.

The City expects application reviews to take up to 1 week to complete.

Applicants will be notified in writing if their application is approved or denied. Approved applicants for installation within the public right-of-way will receive a construction permit and will be authorized to begin construction, installation, or use of the public right-of-way. Approved applicants for installations on private property will receive a zoning certificate and will be authorized to begin construction and installation on private property.

Decisions to deny the application will state the reasons for denial and provide the applicant information on how to appeal the denial determination.

All appeals shall be submitted in writing. Appeals of public right-of-way decisions shall be sent via certified U.S. mail to the City Manager or Director of Public Works. Appeals of private property zoning decisions shall be sent via email to the City's Zoning Administrator for review by the City Manager or her designee.

If an applicant is requesting a permanent installation, the applicant will need to apply for a special privilege permit and follow the established process for approval. For more information about the special privilege permit process contact, Joe Weinel at (937) 333-4218.

## INSTALLATION

When the City notifies applicants about approval, City staff will also advise applicants on site-specific considerations related to your installation. Materials should be assembled off-site to the extent possible in order to reduce the installation time in the street or blocking vehicle egress.

If an applicant's installation will be located within a metered parking space, they will be required to rent meter covers from the Department of Public Works for \$1 each. Meter covers must be in place for the duration of the meter closure.

Permanent installations of parklets or pedlets will require additional oversight and inspections. Contact Joe Weinel at (937) 333-4218 for more information. Permanent patios installed on private property will require full permitting and zoning reviews; applicants should contact Carl Daugherty at (937) 333-3903 for more information.

## OPERATION AND MAINTENANCE

Applicants are solely responsible for the maintenance and upkeep of their installations. This includes all duties and costs related to keeping the installation clean and in good condition. Areas should be cleaned daily, furniture stowed or locked nightly (if appropriate), and any damage repaired promptly. Proper maintenance is a condition of the permission to install, and failure to conduct proper maintenance may result in the loss of permission.

### Example Maintenance Checklist:

- Clean up rubbish within and around the pop-up
- Sweep the area in and around the pop-up
- Remove debris against the outside edge of the pop-up (especially at the curb to help maintain free flow of storm water drainage)
- Water, and maintain plantings
- Place furniture each morning
- Wipe down tables and chairs after each use
- If appropriate, take down and secure furniture overnight

## EVALUATION AND DE-INSTALLATION

### Evaluation

After the pop-up is installed, we want to know how businesses are doing. City staff may walk by installations to count the number of people in the pop-up patio to record how it's being used. In addition to the observational data we collect, we may ask applicants to respond to a few surveys and provide us with sales data (if applicant is a business) from before and after the pop-up installation. This information will help us measure the impact of this program on the success of the business and evaluate whether the program should be extended, how it might be improved, and how it helped our businesses through this trying time.

### Removal

**Applicants are to remove all temporary installations and restore spaces to their original condition no later than December 31, 2021.**

All pop-ups must be constructed and installed in a way that allows them to be easily removed when needed. In rare circumstances, the City may require the temporary or permanent removal of a pop-up patio. Applicants must be able to do so within 30 days of our notice. The City reserves the right to remove your installation if emergency or utility work needs to be conducted. The applicant is responsible for all costs associated with the disassembly and removal of the pop-up.



# APPENDIX

# APPLICATION CHECKLIST

- I have read and reviewed the Pop-Up Patio Program Application Guidebook and the Pop-Up Patio Program Terms and Conditions.
- My business/organization has the capacity to manage an installation and the daily maintenance of a new or expanded outdoor space.
- I found a location that meets all of the site selection requirements (with the understanding that the City of Dayton will do its best to meet the unique needs of each business and make accommodations when necessary).
- (If serving food) My business/restaurant is able to meet the Ohio Uniform Food Safety Code and is able to comply with the State of Ohio Governor's Dine Safe Order.
- (If serving alcohol) I understand that I must contact and receive approval from both Public Health - Dayton Montgomery County and the Division of Liquor Control prior to serving alcohol in my Pop-Up space.
- I have reviewed the Design Standards and have planned my installation to meet them, including all social distancing requirements.
- I have assembled and submitted all of my application materials including:
  - A completed application form
  - A check or money order made payable to the "City of Dayton" in the amount of:
    - \$40 for an installation in the public right-of-way OR
    - \$75 for an installation on private property
  - Photographs of the proposed location
  - A map showing the installation's location
  - A scaled drawing (or site plan) showing the design of the installation
  - Proof of permission from the property owner
  - (If applicable) Proof of support from neighboring businesses
  - Pictures or drawings that illustrate the materials to be used in the installation
  - A brief description of operations, including if alcohol sales will occur and hours of operation
  - Proof of liability insurance
  - A maintenance plan
- I am aware that City of Dayton employees will monitor my installation and may request that I complete short surveys to report how the installation is going.
- I agree to remove my temporary installation by December 31, 2021 and return the property to its original condition.

# APPLICATION FORM: PUBLIC RIGHT-OF-WAY

For Permit for Privileges in Streets and Public Places

Dayton, Ohio \_\_\_\_\_ 20 \_\_\_\_\_

## TO THE DIRECTOR OF PUBLIC WORKS

\_\_\_\_\_ Applicant, owner, lessee(\*) by  
\_\_\_\_\_, the duly authorized representative makes  
application for a permit for \_\_\_\_\_

\_\_\_\_\_ in front of  
Lot number \_\_\_\_\_, known as number \_\_\_\_\_ Street

Pursuant to all of the provisions of Section 95.30 to 95.49, both inclusive, of the Revised Code of General Ordinances as the same now exist or may hereafter be amended, and with such other provisions of other ordinances as may be passed by the Commission, which said existing and future ordinances are made a part of this contract by express reference.

It is understood and agreed that if this application is granted and a permit is issued for the purpose aforesaid, same will be accepted by the applicant subject to all the conditions set out in Sections 95.30 to 95.49, both inclusive, of the Revised Code of General Ordinances as the same now exists or may hereafter be amended as well as subject to such other and further conditions as may hereafter imposed by law or ordinance.

\_\_\_\_\_  
Applicant

By \_\_\_\_\_  
Authorized Agent

(\*) Strike out word or words not applicable.

\_\_\_\_\_  
Owner

# APPLICATION FORM: PRIVATE PROPERTY



City of Dayton  
 Department of Economic Development  
 Division of Building Inspection  
 One Stop Center

371 W. Second St.  
 Dayton, Ohio 45402  
 Phone: 937-333-3883  
 Fax: 937-333-4284

## Building / Zoning Application

Project address \_\_\_\_\_  
 Applicant \_\_\_\_\_  
 Applicant address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_ ZIP \_\_\_\_\_  
 Federal I.D. # \_\_\_\_\_  
 Person to contact \_\_\_\_\_  
 Phone # \_\_\_\_\_ Cell # \_\_\_\_\_  
 Email \_\_\_\_\_

**PERMIT #** \_\_\_\_\_  
 Occupant or Project \_\_\_\_\_  
 Property Owner \_\_\_\_\_  
 Owner Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_ ZIP \_\_\_\_\_  
 Agent's Name \_\_\_\_\_  
 Phone # \_\_\_\_\_ Cell # \_\_\_\_\_

**SEPARATE PERMITS ARE REQUIRED FOR ANY FIRE PROTECTION SYSTEMS, WRECKING, ELECTRICAL, HEATING, OR PLUMBING WORK**

Commercial plan review fee must be paid at the time of application. Fees are based on the value of the project. Enter the estimated value of the work represented on the drawings that accompany this application.

I certify the information contained in this form is complete and accurate, and the work will be done as described hereon, and in accordance with the laws and ordinances of the City of Dayton.

Applicant's signature and date \_\_\_\_\_

Project Value  
 \$ \_\_\_\_\_

**DO NOT WRITE BELOW THIS LINE – FOR OFFICE USE ONLY**

AREA (SF):	CONST. TYPE:	USE GROUP:	NO. OF PLANS SUBMITTED:
PROJECT/ZONING DESCRIPTION:			
	<b>ASSIGN</b>	<b>REJ</b>	<b>APPROVED</b>
			<b>DATE</b>
FLOOD PLAIN			
ZONING			
ENGINEERING			
ADDRESS			
FIRE PREV.			
STRUCTURAL			
WATER ENG.			
PLUMBING			
HEATING			
ELECTRICAL			
HEALTH			
FIRE DEPT.			
ZONING DISTRICT: _____ OVERLAY: _____			
BZA CASE #: _____ PLAN BRD CASE #: _____			

BPIO \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
 LOT # \_\_\_\_\_ ATLAS \_\_\_\_\_

DATE STAMP

PLAN FILE #

REV. 11/18

## REQUIREMENTS FOR SUBMITTING BUILDING PLANS

**A minimum of three (3) sets of plans are required for all Commercial and Residential Projects. Two (2) sets are required for separate submittals of mechanical work (HVAC, Electric, Plumbing) and for all fire suppression and alarms.**

For commercial projects, the **Design Professional's signature and SEAL** must be on all plans.

If the project will require permits for Electrical, HVAC, or Plumbing, the schematics should be submitted with your plans.

PLANS **MAY NOT BE ACCEPTED** WITHOUT ALL NECESSARY INFORMATION. SEE CHECKLIST BELOW:

- |  |   |
|--|---|
| <input type="checkbox"/> Site Plan           | <input type="checkbox"/> HVAC Schematic       |
| <input type="checkbox"/> Building Code Notes | <input type="checkbox"/> Plumbing Schematic   |
| <input type="checkbox"/> Accessibility*      | <input type="checkbox"/> Structural Plans     |
| <input type="checkbox"/> Architectural Plans | <input type="checkbox"/> Electrical Schematic |

\* New construction, additions and changes in occupancy of buildings must meet ICC A117.1 Accessibility Guidelines, including: handicap accessible restrooms, entrance ramps and parking spaces. These items must be shown on the plans for approval.

Separate plan submittal (two sets of drawings) is required for the following types of projects.

- Fire Suppression w/Calculations
- Fire Alarm System w/Strobes & Horns and calculations
- Kitchen Hoods

### PERMIT FEES

**COMMERCIAL PLAN REVIEW FEES will be collected when plans are submitted.**

Plan Review fees are 0.1% of the Project Value, with a minimum fee of \$30.00, plus a 3% State surcharge.

**Building permit fees are calculated in accordance with the "BOCA" type of construction method using the use group, the type of construction and the square footage of the project or based on the Project Value.**

#### Calculations for permits fees:

**Note:** A State of Ohio surcharge will be added to all the following permit fees. The state surcharge is 3% of the permit fee for commercial projects and 1% of the permit fee for residential projects.

For Project Values less than \$2000, the permit fee shall be \$35.00 (\$60.00 minimum for mechanical work) plus the State of Ohio surcharge. NOTE: A Building Permit will also include the Zoning Certificate Fee.

For Project Values more than \$2000 but less than \$100,000, the fee shall be \$35.00 plus 1.0% of the costs in excess of \$2000.

**Example:** Assume Project Value = \$50,000; Permit Fee =  $\{[(\$50,000 - \$2,000) \times 0.010] + \$35\} = \$515.00$ . Add to this amount the State of Ohio surcharge. NOTE: A Building Permit will also include the Zoning Certificate Fee.

For Project Values \$100,000 or more, the fee shall be \$1015.00 plus 0.50% of the cost in excess of \$100,000.

**Example:** Assume Project Value = \$500,000; Permit Fee =  $\{[(\$500,000 - \$100,000) \times 0.005] + \$1015\} = \$3,015.00$ . Add to this amount the State of Ohio surcharge. NOTE: A Building Permit will also include the Zoning Certificate Fee.

#### Zoning Certificate Fee:

Zoning certificate fees are charged on all building permits. Zoning fees are 0.2% of the cost, with a minimum fee of \$75.00 and a maximum of \$10,000. *(The state surcharge is not added to this fee.)*

**Example:** Project Value = \$50,000; Zoning Fee =  $\$50,000 \times 0.002 = \$100.00$

#### Additional Fees:

- Revisions to Plans - A minimum fee will be charged for the second and subsequent filing of changes and/or additions of \$150.00 for commercial and \$75.00 for residential plans.
- Certificate of Use and Occupancy (CUO) – The fee is \$203.30 for commercial or \$100.60 for residential property. The fee for a replacement CUO is \$36.05 for commercial or \$35.35 for residential. The Ohio State surcharge is included in the fee amounts shown. Fees for time limited occupancy CUOs will also include a \$50.00 inspection fee and a \$30.90 plan review fee.
- Construction Water is charged for all **NEW** construction. Call the Department of Water for more information at 937-333-6804 or 937-333-3749.
- Special Inspections - Inspections to assess vehicle, fire, or wind damage to buildings and to assess property listed as a nuisance by Housing Inspection are limited to 1-, 2-, and 3-family dwellings with a fee of \$50.00 for the inspection. All other structures must have an assessment made by a licensed professional registered with the State of Ohio.

Rev 11/18

# PERMISSION LETTER TEMPLATE

[[NAME OF BUSINESS]]

[[ADDRESS]]

[[CONTACT]]

Dear [[PROPERTY OWNER NAME, NEIGHBOR NAME]],

As you may know, my business, [[NAME OF YOUR BUSINESS]], located at [[ADDRESS]], has been impacted by the effects of COVID-19. Indoor space will be limited in the near future; therefore, I would like to take advantage of the new Pop-Up Patio program created by the City of Dayton to expand my outdoor dining area.

I am writing today [["as your tenant" OR "as your neighbor"]] to seek your permission

[[CHOOSE ONE]]

...to expand my business' existing patio space to include adjacent space on the sidewalk.

...to create new outdoor dining space by creating a parklet.

...to create a pedlet into the adjacent parking spaces that will allow safe pedestrian travel around my expanded outdoor dining area.

I am following the rules set forth by the City of Dayton to create this outdoor space for my customers, and I'm happy to share details about the layout and setup of the space, if you would like. If you'd like to see all the guidelines in detail, you can find a copy at [DaytonOhio.gov](http://DaytonOhio.gov).

This temporary installation will only remain in place through December 31, 2021. If I have your permission to proceed with this plan, please sign below. I am happy to answer any questions as best I can.

Sincerely,

[[SIGNATURE]]

YES, I understand the nature of this Pop-Up Patio program, and I consent to this business' application, knowing this business must adhere to the guidelines established by the City of Dayton.

---

(sign name)

---

(print name)

# TERMS AND CONDITIONS

## Pop-Up Patio Public Right-of-Way: Terms and Conditions

By applying for the Pop-Up Patio Program (“Program”), Applicant agrees and shall comply with all terms and conditions included in this Program Guide and any related permit issued by the City of Dayton (“City”), which terms and conditions are detailed herein. Applicant acknowledges and agrees that the City may, in its sole discretion, deny or reject any application site that presents safety or traffic circulation concerns. Further, the City may, in its sole discretion, limit, reduce, or revoke any permit issued that presents safety or traffic circulation concerns.

**A. General Terms and Conditions.** Applicant acknowledges that this Program and any permit issued are revocable, at the sole discretion of the City, and temporary. As a result, any permit issued by the City shall be a revocable, temporary license permitting the applicant to operate an outdoor dining area for a limited period of time. Any permit issued creates no other property interest than a revocable license. This Program or any permit issued does not create a private right to occupy the public right-of-way or diminish the City Manager’s, or his or hers designee, authority to oversee and manage the use of the public right-of-way in the City’s best interests. This revocable street privilege for outdoor dining is subject to modification or revocation at the City’s sole discretion. Applicant agrees and acknowledges that the City’s Engineering Department will review the application and grant, grant with conditions, or deny the application. The Applicant agrees and acknowledges that the City has the authority to condition or revoke approvals deemed to have been improvidently granted or inappropriate in light of new information or changed circumstances. In addition, the City may impose conditions on new or existing approvals in order to promote the public health, safety, and welfare and to mitigate adverse impacts that have arisen or may arise in connection with a new or expanded outdoor dining area approved under this program. Anyone who wishes to challenge the approval or denial may seek reconsideration by the City’s Senior Engineer by submitting the appeal to the approval or denial via email to the City’s Senior Engineer. This shall be the exclusive means of appealing any approvals granted or revoked under the program. The Senior Engineer shall have the sole discretion to approve or reject a challenge, but such determination shall consider application requirements, program guidelines, and public health, safety, and welfare needs.

**B. Operating Terms and Conditions.** Applicants by applying for a Program Permit agree to comply with the following operating conditions:

1. Applicant shall comply with and enforce customer compliance with the state’s requirements for restaurant and bar operation, a copy of which is attached as Exhibit A, including but not limited to refusing to serve customers that do not comply with the public health orders of the State of Ohio and Public Health – Dayton & Montgomery County.
2. Applicant shall properly clean and disinfect all dining tables and chairs between each customer use with the approved cleaning/disinfecting agent.
3. Applicant shall have adequate on-site hand sanitizing and hand-washing stations available to employees and customers.
4. Applicant shall be responsible for coordinating any issues or permissions required from neighboring operators affected by its proposed site
5. Applicant shall not permit any dogs or other animals, except as required for persons with disabilities (i.e., as accommodations under the Americans with Disabilities Act), in its proposed site.
6. Applicant shall comply with all required liquor laws and be responsible for coordinating compliance with applicable local and state authorities.

7. Applicant shall not store or prepare food in its proposed site.

### C. Standard Terms and Condition: Pop-Up Patio Program Permit

Each applicant receiving permission to establish outdoor street dining in the right-of-way (“Permittee”) agrees and shall abide by the following standard terms and conditions:

1. **COVID-19 Health Requirements and Other Standard Conditions.** The Permittee shall comply and further shall cause its employees, agents, guests, invitees, and contractors to comply with all state and local orders addressing public health and social distancing, including any orders issued by the Public Health - Dayton & Montgomery County (“Public Health”) and/or the City of Dayton (“City”) concerning the establishment of outdoor street dining in the right-of-way. This shall include requirements governing social distancing, face covering, and other requirements for restaurants from the State of Ohio in conjunction with the reopening of outdoor dining effective May 15, 2020, as amended or supplemented over time. In the event of a conflict between Public Health and state guidance, Permittee shall comply with whichever is more protective of the public health as determined by the City. In addition, the Permittee shall comply and further shall cause its employees, agents, guests, invitees, and contractors to comply with these terms and conditions and any other rules or regulations established by the City concerning the establishment of outdoor street dining in the right-of-way, which the City may modify or supplement from time to time in order to protect and promote the public health, safety, and welfare.
2. **Expenses.** All expenses associated with the Permittee’s establishment and operation of outdoor street dining in the right-of-way shall be borne by Permittee. The City shall not be responsible for any costs associated with the Permittee’s establishment and operation of outdoor street dining in the right-of-way.
3. **Establishment of Outdoor Street Dining Area.** In establishing outdoor street dining in the right-of-way, Permittee shall not modify, alter, or demolish existing curbs, sidewalks, streets or other encroachments within or near the right-of-way or attach furniture or other fixtures using fasteners, adhesives, or other invasive means, unless specifically approved by the City as part of the City’s approval of Permittee’s plans.
4. **Maintenance of Outdoor Street Dining Area.** Following the Permittee’s establishment and operation of outdoor street dining in the right-of-way, Permittee shall maintain the area in good, clean, and safe condition and repair and in accordance with applicable City rules and regulations. If the City determines that the outdoor street dining poses a hazardous condition, has caused damage to City property, or is otherwise not being properly maintained, the City may require Permittee to immediately take such action as is necessary to rectify the situation to the City’s satisfaction. If Permittee fails to correct the identified hazardous condition, improper maintenance, damage, or other problem caused by the outdoor street dining, the City may do so; whereupon Permittee shall pay all costs incurred by the City, together with interest thereon from the date that the City pays or incurs such costs at a reasonable rate of interest determined by the City, within thirty (30) days after the City’s written demand.
5. **City’s Right to Enter upon Right-of-Way Property.** Permittee acknowledges that the City and its authorized representatives have the unlimited right to enter upon the right-of-way at any time for any purpose, including without limitation to inspect the right-of-way and permitted encroachments; provided, however, the City shall have no duty to inspect.
6. **Rights of Utility Companies.** All rights herein granted to Permittee establish and operate

- outdoor street dining in the right-of-way are subject and subordinate to the rights of any and all utility companies that may now or hereafter have utility lines and/or other utility installations within the right-of-way. Permittee shall not alter, relocate, or otherwise interfere with such utility lines and installations and shall not do anything that will impair such utility companies' right to enter upon the right-of-way from time to time for all purposes associated with the operation, maintenance, repair, replacement or removal of such utility lines and installations. Permittee shall ensure that such utility companies have continued access to the subject area, 24 hours per day, 7 days per week, 52 weeks per year.
7. **Insurance.** During the period in which this revocable privilege is in effect, Permittee shall maintain a policy of General Liability insurance with respect to the right-of-way and the outdoor street dining in an amount not less than One Million Dollars per occurrence, combined single limit, naming the City as an additional insured. Permittee shall furnish to the City a certificate of insurance evidencing such insurance prior to commencing construction of Permittee's permitted encroachments, unless otherwise authorized by the City.
  8. **Waiver of Claims for Damage.** The City shall have no responsibility or liability for loss or damage to any person or property including the permitted encroachments or theft of any permitted encroachments or any items of personal property that may at any time be on the right-of-way, including without limitation damage caused by the general public, trespassers, graffiti, thrown objects, wind, hail, fire, or other casualty, no matter how such damage is caused. As a material inducement to the City to grant this outdoor street dining privilege, Permittee hereby waives, as against the City and its elected officials, officers, employees, agents, guests, invitees, and contractors, all claims and liability, and on behalf of Permittee's insurers, rights of subrogation, with respect to property damaged or destroyed by fire or other casualty or any other cause, no matter how caused.
  9. **Indemnification.** Permittee shall indemnify, defend, and save the City, its elected officials, officers, employees, agents, and contractors harmless from and against any and all losses, damages, settlements, costs, charges professional fees, and other expenses and liabilities of every kind and character (including without limitation attorney fees) arising out of or related to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character in connection with Permittee's establishment and operation of outdoor street dining in the right-of-way, use of the right-of-way, or violation of the provisions set forth in this outdoor dining privilege, including without limitation any of the foregoing that may arise or be claimed with respect to any death, personal injury, or loss of or damage to property on or about the right-of-way. Permittee shall assume the defense (with counsel acceptable to the City) and settlement of any and all such suits or other legal proceedings brought against the City and shall pay all judgments entered in such suits or other legal proceedings. The assumption of liability and indemnity obligations of Permittee under this outdoor dining privilege shall survive the termination of this outdoor dining privilege with respect to matters arising prior thereto.
  10. **Compliance with all applicable laws.** Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinances, or other rules.
  11. **Adverse impacts on adjacent properties.** Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the permitted encroachments.
  12. **Accessibility.** Permission for outdoor street dining in the right-of-way shall be conditioned on maintenance of accessible conditions along the sidewalk adjacent to the outdoor

dining area. Permittee shall maintain a minimum path of travel along the sidewalk area of at least 48” in width at all points adjacent to the outdoor dining area, which area shall be permitted to be narrowed due to existing sidewalk fixtures (e.g., light posts, fire hydrants, and other fixtures) but in no case shall be narrower than 36” for a length of more than two feet.

- 13. City’s Right to Revoke.** The City shall have the right to revoke or alter, at its sole discretion, this outdoor dining privilege, upon providing written notice to Permittee. Within 14-days, unless otherwise agreed to by the City, Permittee shall remove the permitted encroachment and restore the right-of-way to a condition that is acceptable to the City.
- a. Obligation to Remove Permitted encroachment.** If Permittee fails to timely remove the permitted encroachment and restore the right-of-way as required under this outdoor dining privilege, the City may do so at Permittee’s expense. All obligations of Permittee hereunder that have accrued but have not been fully performed as of the effective date of the termination of this outdoor dining privilege shall survive such termination until fully performed.
  - b. Transfer of Permittee’s Property.** This outdoor dining privilege is personal to Permittee, shall not inure to the benefit of Permittee’s successors-in-interest with respect to Permittee’s property, and shall not be recorded in the public records. Permittee shall provide the City thirty (30) days’ prior written notice of its intent to close on the sale or transfer of Permittee’s property. Upon Permittee’s sale or transfer of Permittee’s property, this outdoor dining privilege shall automatically terminate. Prior to the closing on any such sale or transfer, unless the City has granted, and the purchaser or transferee has accepted, an outdoor dining privilege for the permitted encroachments to take effect upon closing, Permittee shall remove the permitted encroachments and restore the right-of-way to a condition that is acceptable to the City.
- 14. Governing Law.** This Permit is governed and construed under the laws of the State of Ohio, without giving effect to choice of law provisions. By execution hereof, Permittee irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Permit.

## Pop-Up Patio Private Outdoor Dining: Terms and Conditions

By applying for the Pop-Up Patio Program (“Program”), Applicant agrees and shall comply with all terms and conditions included in this Program Guide and any related permit issued by the City of Dayton (“City”), which terms and conditions are detailed herein. Applicant acknowledges and agrees that the City may, in its sole discretion, deny or reject any application outdoor dining site that presents safety or traffic circulation concerns. Further, the City may, in its sole discretion, limit, reduce, or revoke any permit issued that presents safety or traffic circulation concerns. Applicant acknowledges and agree that approvals granted under this program are not building permits or zoning permits. Rather, the authorization is a special temporary permission to suspend aspects of City building and zoning requirements to address public health concerns. Any permit issued pursuant to this program will temporarily supersede existing laws that conflict with the program’s goal of allowing for the efficient and orderly expansion of outdoor dining to promote public health and safety. However, this Program does not supersede applicable building codes, health codes, accessibility laws, or other laws, rules, or regulations under the jurisdiction of the Public Health – Dayton and Montgomery County, the Ohio Department of Health, or Ohio Division of Liquor Control requirements that govern the operations of the restaurant.

Applicant agrees and acknowledges that the City’s Zoning Administrator will review the application and grant, grant with conditions, or deny the application. The Applicant agrees and acknowledges that the City has the authority to condition or revoke approvals deemed to have been improvidently granted or inappropriate in light of new information or changed circumstances. In addition, the City may impose conditions on new or existing approvals in order to promote the public health, safety, and welfare and to mitigate adverse impacts that have arisen or may arise in connection with a new or expanded outdoor dining area approved under this program. Anyone who wishes to challenge the approval or denial may seek reconsideration by the City Manager or her designee by submitting the appeal to the approval or denial via email to the City’s Zoning Administrator. This shall be the exclusive means of appealing any approvals granted or revoked under the program. The City Manager or her designee shall have the sole discretion to approve or reject a challenge, but such determination shall consider application requirements, program guidelines, and public health, safety, and welfare needs.

**A. General Terms and Conditions.** Applicant acknowledges and agrees that any approval to operate new or expanded outdoor dining area under this program will indicate the time period of approval and confirm that legal nonconforming status is not conferred upon the affected property beyond the period of approval. In addition, applicant acknowledges and agrees that approval may be rescinded if the affected property is not operated in compliance with applicable conditions of approval, e.g. if outdoor entertainment is being utilized, spacing requirements are not met, or permitted occupancy is exceeded. Further, Applicant acknowledges and agrees that any permit issued is temporary in nature and may be revoked or modified at any time by the City, at its sole discretion.

**B. Operating Terms and Conditions.** Applicants by applying for a Program Permit agree to comply with the following operating conditions:

1. Applicant shall comply with and enforce customer compliance with the state’s requirements for restaurant and bar operation, a copy of which is attached as Exhibit A, including but not limited to refusing to serve customers that do not comply with the public health orders of the State of Ohio and Public Health – Dayton & Montgomery County.
2. Applicant shall properly clean and disinfect all dining tables and chairs between each customer use with the approved cleaning/disinfecting agent.
3. Applicant shall have adequate on-site hand sanitizing and hand-washing stations available to employees and customers.
4. Applicant shall be responsible for coordinating any issues or permissions required from neighbor operators affected by its proposed site
5. Applicant shall not permit any dogs or other animals, except as required for persons with disabilities (i.e., as accommodations under the Americans with Disabilities Act), in its proposed site.
6. Applicant shall comply with all required liquor laws and be responsible for coordinating compliance with applicable local and state authorities.
7. Applicant shall not store or prepare food in its proposed site.

### **C. Standard Terms and Condition: Pop-Up Patio Program Permit**

Each applicant receiving permission to establish outdoor dining area (“Permittee”) agrees and shall abide by the following standard terms and conditions:

1. **COVID-19 Health Requirements and Other Standard Conditions.** The Permittee shall comply and further shall cause its employees, agents, guests, invitees, and contractors to comply with all state and local orders addressing public health and social distanc-

- ing, including any orders issued by the Public Health - Dayton & Montgomery County (“Public Health”) and/or the City of Dayton (“City”) concerning the establishment of outdoor dining area. This shall include requirements governing social distancing, face covering, and other requirements for restaurants from the State of Ohio in conjunction with the reopening of outdoor dining effective May 15, 2020, as amended or supplemented over time. In the event of a conflict between Public Health and state guidance, Permittee shall comply with whichever is more protective of the public health as determined by the City. In addition, the Permittee shall comply and further shall cause its employees, agents, guests, invitees, and contractors to comply with these terms and conditions and any other rules or regulations established by the City concerning the establishment of outdoor street dining in the right-of-way, which the City may modify or supplement from time to time in order to protect and promote the public health, safety, and welfare.
2. **Expenses.** All expenses associated with the Permittee’s establishment and operation of outdoor street dining in the right-of-way shall be borne by Permittee. The City shall not be responsible for any costs associated with the Permittee’s establishment and operation of outdoor street area.
  3. **Establishment of Outdoor Dining Area.** Permission to establish or expand an outdoor dining area under this Program does not authorize the Permittee to physically modify, alter, or demolish existing structures and site improvements or to erect new structures or site improvements; provided, however, Permittees may install temporary barriers or separations, re-stripe parking lots, and make use of temporary ramps to ensure accessibility, promote health and safety, and otherwise accommodate the establishment or expansion of outdoor dining into parking areas. The construction, modification, alteration, and demolition of structures and site improvements will typically require the issuance of a building permit, and the Permittee is encouraged to work with the City to determine if certain improvements will require a building permit.
  4. **Maintenance of Outdoor Dining Area.** Following the Permittee’s establishment or expansion of an outdoor dining area, Permittee shall maintain the area in good, clean, and safe condition and repair and in accordance with applicable City rules and regulations. If the City determines that the outdoor dining area poses a hazardous condition, has caused damage to City property, or is otherwise not being properly maintained, the City may require Permittee to immediately take such action as is necessary to rectify the situation to the City’s satisfaction. If Permittee fails to correct the identified hazardous condition, improper maintenance, damage, or other problem caused by the outdoor dining area, the City may do so; whereupon Permittee shall pay all costs incurred by the City, together with interest thereon from the date that the City pays or incurs such costs at a reasonable rate of interest determined by the City, within thirty (30) days after the City’s written demand.
  5. **City’s Right to Enter Upon Property.** Permittee authorizes that the City and its authorized representatives to enter its new or expanded outdoor dining area during normal operating hours in order to inspect the area and confirm compliance with state and local health orders and guidance, the rules and regulations of this program, and these terms and conditions; provided, however, the City shall have no duty to inspect.
  6. **Accessibility.** Permission for the establishment or expansion of outdoor dining is conditioned on maintenance of accessible conditions to, from, and within the outdoor dining area. Among other things, Permittee shall maintain an accessible path of travel to, from, and within the outdoor dining area no less than 44 inches in width at all points adjacent to the outdoor dining area.

7. **Insurance.** During the period in which this revocable privilege is in effect, Permittee shall maintain a policy of General Liability insurance with respect to the outdoor dining area in an amount not less than One Million Dollars per occurrence, combined single limit, naming the City as an additional insured. Permittee shall furnish to the City a certificate of insurance evidencing such insurance prior to commencing construction of Permittee's permitted outdoor dining area, unless otherwise authorized by the City.
8. **Waiver of Claims for Damage.** The City shall have no responsibility or liability for loss or damage to any person or property including the permitted outdoor dining areas or theft of any permitted outdoor dining areas or any items of personal property that may at any time be on the right-of-way, including without limitation damage caused by the general public, trespassers, graffiti, thrown objects, wind, hail, fire, or other casualty, no matter how such damage is caused. As a material inducement to the City to grant this outdoor dining privilege, Permittee hereby waives, as against the City and its elected officials, officers, employees, agents, guests, invitees, and contractors, all claims and liability, and on behalf of Permittee's insurers, rights of subrogation, with respect to property damaged or destroyed by fire or other casualty or any other cause, no matter how caused.
9. **Indemnification.** Permittee shall indemnify, defend, and save the City, its elected officials, officers, employees, agents, and contractors harmless from and against any and all losses, damages, settlements, costs, charges professional fees, and other expenses and liabilities of every kind and character (including without limitation attorney fees) arising out of or related to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character in connection with Permittee's establishment and operation of outdoor dining area or violation of the provisions set forth in this outdoor dining privilege, including without limitation any of the foregoing that may arise or be claimed with respect to any death, personal injury, or loss of or damage to property on or about the right-of-way. Permittee shall assume the defense (with counsel acceptable to the City) and settlement of any and all such suits or other legal proceedings brought against the City and shall pay all judgments entered in such suits or other legal proceedings. The assumption of liability and indemnity obligations of Permittee under this outdoor dining privilege shall survive the termination of this outdoor dining privilege with respect to matters arising prior thereto.
10. **Compliance with all applicable laws.** Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinances, or other rules.
11. **Personal Privilege; No Transfer; No Nonconforming Use.** This outdoor dining privilege is personal to Permittee and it may not be transferred without the express prior written consent of the City. In addition, this privilege shall not run with the land and shall not be recorded in the public records. Permittee acknowledges and agrees that the privilege extended under the City's Private Outdoor Dining Program shall not have the effect of conferring legal nonconforming status on the property upon which the new or outdoor dining area is permitted. Permittee shall provide the City 30 days' prior written notice of its intent to cease operation or transfer its business operations to another operator. Upon Permittee's sale, transfer, or termination of its business, this outdoor dining privilege shall automatically terminate.
12. **Adverse impacts on adjacent properties.** Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the permitted encroachments.
13. **City's Right to Revoke.** The City shall have the right to revoke or alter, at its sole dis-

cretion, this outdoor dining privilege, upon providing written notice to Permittee. Within 14-days, unless otherwise agreed to by the City, Permittee shall remove the permitted encroachment and restore the right-of-way to a condition that is acceptable to the City.

- a. **Obligation to Remove Permitted encroachment.** If Permittee fails to timely remove the permitted encroachment and restore the right-of-way as required under this outdoor dining privilege, the City may do so at Permittee's expense. All obligations of Permittee hereunder that have accrued but have not been fully performed as of the effective date of the termination of this outdoor dining privilege shall survive such termination until fully performed.
- b. **Transfer of Permittee's Property.** This outdoor dining privilege is personal to Permittee, shall not inure to the benefit of Permittee's successors-in-interest with respect to Permittee's property, and shall not be recorded in the public records. Permittee shall provide the City thirty (30) days' prior written notice of its intent to close on the sale or transfer of Permittee's property. Upon Permittee's sale or transfer of Permittee's property, this outdoor dining privilege shall automatically terminate. Prior to the closing on any such sale or transfer, unless the City has granted, and the purchaser or transferee has accepted, an outdoor dining privilege for the permitted encroachments to take effect upon closing, Permittee shall remove the permitted encroachments and restore the right-of-way to a condition that is acceptable to the City.

**14. Governing Law.** This Permit is governed and construed under the laws of the State of Ohio, without giving effect to choice of law provisions. By execution hereof, Permittee irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Permit.



# Responsible RestartOhio

## Restaurants, Bars, and Banquet & Catering Facilities/Services



### Mandatory

#### Employees

- **Ensure minimum of six feet between employees, if not possible, utilize barriers if applicable and increase the frequency of surface cleaning, handwashing, sanitizing and monitor compliance.**
- Businesses must allow all customers, patrons, visitors, contractors, vendors and similar individuals to use facial coverings, except for specifically documented legal, life, health or safety considerations and limited documented security considerations
- Businesses must require all employees to wear facial coverings, except for one of the following reasons:
  - Facial coverings in the work setting are prohibited by law or regulation
  - Facial coverings are in violation of documented industry standards
  - Facial coverings are not advisable for health reasons
  - Facial coverings are in violation of the business's documented safety policies
  - Facial coverings are not required when the employee works alone in an assigned work area
  - There is a functional (practical) reason for an employee not to wear a facial covering in the workplace

*(Businesses must provide written justification to local health officials, upon request, explaining why an employee is not required to wear a facial covering in the workplace. At minimum, facial coverings (masks) should be cloth/fabric and cover an individual's nose, mouth, and chin.)*

- Employees must perform daily symptom assessment\*
- Require employees to stay at home if symptomatic and perform daily symptom assessment requirements before returning to work
- Provide ServSafe, or other approved COVID-19 education, as soon as possible. Add COVID-19 symptoms to the current standard Health Agreement required by the food safety code
- Require regular handwashing by employees
- Comply with person in charge certification requirements and manager certification requirements as set forth in OAC 3701-21-25 and OAC 3717-1-02.4 as applicable
- Maintain compliance with ODH sanitation and food safety regulations
- Limit number of employees allowed in break rooms at the same time and practice social distancing. Maximum to be current group size per state guidelines (currently 10)
- Banquet and catering facilities/services must not serve more than 300 guests at one time

### Recommended Best Practices

- Encourage 3rd-party delivery staff to wait outside or in non-congested areas practicing social distancing guidelines. Encourage 3rd-party delivery staff to wear face coverings
- Educate on proper use, disposal, and maintenance of face coverings. Enhance education on proper use of gloves, per code
- Health checks may include temperature assessments, questionnaires, employee self-checks, screening apps or other tools. Update files with log of "health checks"
- Conduct telephone symptom assessment\* for employees who were ill and planning to return to work
- As employee rehiring begins, consider virtual interviewing and on-boarding when possible
- Reinforce education per current food safety code about when to wash hands. Post health department handwashing posters at sinks and stations. Set times for periodic handwashing
- Avoid switching tasks when possible to reduce cross contamination concerns. Increase handwashing if changing tasks is necessary

\*Per the CDC, symptoms include cough, shortness of breath or difficulty breathing, fever, chills, muscle pain, sore throat, and new loss of taste or smell.

## Mandatory

### Customers & Guests

- **Ensure a minimum of six feet between parties waiting and when dining - if not possible, utilize barriers or other protective devices**
- Post a list of COVID-19 symptoms in a conspicuous place
- Ask customers and guests not to enter if symptomatic
- Provide access to hand washing methods while in the food service establishment, and if possible, place approved hand washing/sanitizing products in high-contact areas
- Food service establishments offering dine-in service must take affirmative steps with customers to achieve safe social distancing guidelines

### Physical Spaces

- Establish and post maximum dining area capacity using updated COVID-19 compliant floor plans. With maximum party size per state guidelines (currently 10)
- Post a kitchen floor plan, establishing safe social distancing guidelines and following established state health dept guidance for masks and gloves
- Daily cleaning for the entire establishment. Clean and sanitize tabletops, chairs, and menus between seatings. Clean all high touch areas every two hours, and more frequently as needed (e.g. door handles; light switches; phones, pens, touch screens)
- Provide approved hand washing/sanitizing products in common areas
- When appropriate, establish ordering areas and waiting areas with clearly marked safe distancing and separations per individual/social group for both restaurant and bar service
- Remove self-service, table, and common area items (e.g. table tents, vases, lemons, straws, stir sticks, condiments)
- Salad bars and buffets are permitted if served by staff with safe six feet social distancing between parties
- Self-service buffets and product samples are prohibited, but self-service beverage is permitted.
- Private dining and bar seating areas within a foodservice establishment must follow all approved safe social distancing guidelines
- The open congregate areas in restaurants, bars, and banquet and catering facilities that are not necessary for the preparation and service of food or beverages (billiards, card playing, pinball games, video games, arcade games, dancing, entertainment) shall remain closed

### Confirmed Cases

- Immediately isolate and seek medical care for any individual who develops symptoms while at work
- Contact the local health district about suspected cases or exposures
- Shutdown area for deep sanitation if possible

## Recommended Best Practices

- Face coverings are recommended at all times, except when eating
- Health questions for symptoms\*\* posted at the entrance
- If possible, identify a dedicated entrance door and exit door. When possible, enable dining room ventilation (e.g. open doors and windows)
- When possible, encourage customers to make dine-in reservations or use drive through, pick-up, call-in, curbside or delivery options
- Encourage at-risk population to utilize alternative options such as using the drive through, pick-up, call-in, curbside, or delivery options

- Utilize barriers in high volume areas
- If possible, stagger workstations so employees avoid standing directly opposite or next to each other. If not possible, increase the frequency of surface cleaning, handwashing, sanitizing, and monitor compliance
- Limit entrance and exit options when possible while still maintaining code regulations
- Enhance weekly deep cleaning checklists. Consider posting communication to indicate table has been cleaned. Utilize disposable menus when possible
- Post health department "best practices" highlighting continuous cleaning and sanitizing of all food equipment and common surfaces
- Continue to emphasize employee education and compliance with hand washing, glove use, employee health, and food handler training
- Consider air filtration improvements within HVAC system
- Encourage and continue to use designated curbside pickup zones for customers

- Work with local health department to identify potentially infected or exposed individuals to help facilitate effective contact tracing/ notifications
- Once testing is readily available, test all suspected infections or exposures
- Following testing, contact local health department to initiate appropriate care and tracing

\*\*Per the CDC, symptoms include cough, shortness of breath or difficulty breathing, fever, chills, muscle pain, sore throat, and new loss of taste or smell.