

Establishing a Process for the Expansion of Outdoor Dining in a Community

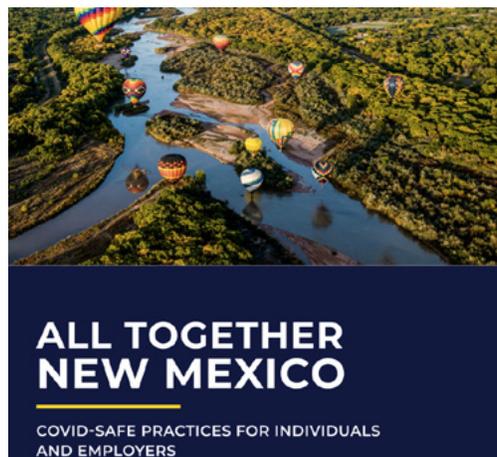
On July 30, 2020 The New Mexico Public Health Order Stated:

“Restaurants” are those operations that generated at least 50% of their sales from dine-in services from the sale of food during the last calendar year. Sales made to customers for off-site consumption such as the sale of growlers, wholesale revenues, and to-go items are excluded from this calculation. “Local breweries” are those businesses licensed pursuant to NMSA 1978, § 60-6A-26. Restaurants may provide either delivery or carryout service. No dine-in service may be provided in indoor seating areas. Restaurants and local breweries may provide dine-in service in outdoor seating areas only at up to 50% of their outdoor fire code occupancy. Outdoor dine-in service may only be provided to patrons who are seated. Tables must be placed with at least six feet of distance between tables. No more than six patrons may be seated at any single table. No bar or counter seating is permitted. Restaurants and local breweries must operate in compliance with applicable occupancy restrictions and COVID-Safe Practices (CSPs) for Restaurants” section of the “All Together New Mexico: COVID-Safe Practices for Individuals and Employers.” Local wineries and distillers may operate but only for carry out service.

Statewide Regulations for Modifications to Outdoor Dining:

For outdoor dining modifications, the following requirements apply:

- Expansions of outdoor service areas must be approved by the appropriate local government agency. If service includes a liquor licensed premises, complete an application for approval through the Alcohol and Beverage Control (ABC) Division, which can be found on their [website](#).
- The area must be open on at least three sides when in use for outdoor dining. Tent sidewalls may be added for security when the facility is not in use.
- Tents may be utilized if approved by the appropriate local government agency.
- Opening a garage door or all windows does not constitute an outdoor dining area.
- Restaurants should follow COVID-Safe Practices found [here](#).



* Please check newmexico.gov for updates to the public health order and dining restrictions.

General Regulations to Consider to Facilitate Outdoor Dining in your Community:

- Develop a temporary outdoor seating extension application specifically for COVID-19 response
- Issue an outdoor seating temporary license or permit to all businesses who register that will last until all COVID-19 restrictions are lifted
- Establish guidelines to allow businesses to expand their business footprint or outdoor seating onto city public rights-of-way or in privately-owned parking lots to allow operations while also slowing the spread of COVID-19

Examples of general guidelines:

- A path of a minimum distance such as 4 feet should be maintained between entrances and pedestrian walkway space
- A minimum path of a specified distance such as 4 feet should be maintained between the outdoor seating and edge of driveways, alleys, and ramps
- Outdoor dining should not block access to public amenities like street furniture, trash receptacles, way finding or directional signs, building entrances, crosswalks, and bus stops
- Outdoor dining should not impede on sight triangles at street intersections
- Require fencing around establishments that serve alcoholic beverages
- Signage for dining establishments should not be placed in a way that obstructs pedestrian and/or vehicular traffic or violates standards of accessibility as required by the ADA
- Outdoor dining should not be in or inhibit access to required handicap parking spaces
- Outdoor dining may not block or be located in fire lanes or block fire hydrants
- Barriers are recommended to define outdoor seating areas

Options for Expanding Outdoor Dining:

Sidewalk Dining

- Sidewalk dining can allow businesses to place additional tables and chairs beyond the frontage of the business. This is a simple way to quickly expand seating.

-Things to consider:

- Pedestrian right of way needs to be maintained

Parklets

- Parklets allow for drinking and dining in a street parking space.

-Things to consider:

- Only allowing parklets in certain districts where they are appropriate such as downtown, main street, or commercial districts



- Limit parklets to streets that have slower speeds such as streets with 35 mph speed limit or less
- Require parklets to be setback a specified distance from intersections and driveways
- Parklets must be ADA accessible
- Set a maximum width for parklets such as no wider than a parking stall width
- Set a parklets maximum length such as of 2 parking spaces
- Require or provide buffers between parklet, adjacent parking, and the street
- Consider requiring reflective elements at parklet corners
- Parklets should not impede curbside drainage
- Consider temporarily allowing free rent of parking spaces for businesses to utilize during restrictions due to COVID-19

Parking Lot Dining

- Restaurants can use their own parking lot or an adjacent parking lot to host additional space for outdoor dining.
 - Things to consider:**
 - Maintaining necessary levels of parking while expanding into lot
 - Not requiring additional parking due to seating and occupancy limits
 - Lot should be adjacent to business, and businesses should have permission from lot owners for use of lot

Street Closure for Dining

- Restaurants can coordinate with neighboring businesses to close an adjacent street to traffic. This allows for increased space for dining and other outdoor business displays. This option also creates more space for pedestrians to utilize the space.
 - Things to consider:**
 - Utilize a similar permitting process as a special event
 - Road to be used for dining should be a non-thoroughfare
 - Neighboring businesses and residences must also approve of road closure

Communities Who Have Adopted New Outdoor Dining Procedures:

City of Albuquerque

- Created various resources including a [presentation](#) and [webinar](#) describing their outdoor dining procedures
- Waiving permit fees, while still requiring annual permit of \$2.50 per square foot for parklets or sidewalk dining
- Requiring site plans and proof of insurance along with required permits
- Requiring site inspection by fire marshal

City of Rio Rancho

- Created new expanded outdoor dining [application packet](#)
- Waiving permit fees
- Requiring proof of ownership or tenancy
- Requiring site plan
- Requiring Fire Marshal review for any temporary tents and structures

Village of Los Lunas

- Not requiring permits to expand patios at this time
- Requiring permit from Alcohol and Gaming and approval from Mayor for expanding liquor sales onto patio

Town of Mountainair

- Not requiring permits to expand patios
- Purchased tents for businesses to rent to expand outdoor service
- Created page on [website](#) to host menus for all restaurants within the town

*Please check city websites for the most up-to-date outdoor dining permitting procedures.