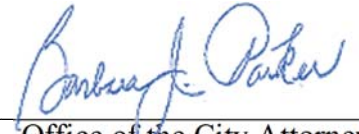


Approved as to Form and Legality



Office of the City Attorney

Emergency Order No. 4 of the City of Oakland
City Administrator/Director of the Emergency Operations Center

Whereas, due to the spread of COVID-19 (coronavirus) within the state, on March 1, 2020, the Alameda County Public Health Department, and on March 4, 2020, Governor Gavin Newsom, declared local and state public health emergencies due to the spread of COVID-19 locally and within the State, pursuant to Health & Safety Code section 101080 and Government Code section 8625, respectively, and

Whereas, on March 9, 2020, the City Administrator in her capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland (“COVID-19 Local Emergency”). The City Administrator declared the COVID-19 Local Emergency pursuant to her power under Oakland Municipal Code (O.M.C.) section 8.50.050(C) to proclaim a local emergency provided that the local emergency proclamation shall remain in effect only if the City Council confirms the existence of the emergency within seven (7) days of the proclamation; and

Whereas, On March 12, the City Council passed Resolution No. 88075 C.M.S. confirming the existence of the COVID-19 Local Emergency; and

Whereas, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, ordering “all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors”, and further acknowledged that the “supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care”; and

Whereas, the Order N-33-20 provides that, to mitigate/control the spread of COVID-19, when people need to leave their homes or places of residence to carry out specified essential functions or to facilitate necessary activities, they should at all times practice “social distancing”, which means remaining a distance of six (6) feet from other persons when in public places; and

Whereas, on March 16, 2020, the Alameda County Health Officer issued Health Order No. 20-03 directing Alameda County residents to “shelter in place,” or stay at home, except as necessary to take care of essential needs. That Order extended to April 7, 2020. On March 31, 2020, the Alameda County Health Officer issued a replacement order, Health Order No. 20-04, which tightened the restrictions and extended the stay-at-home order through May 3. The Order was extended and revised by County Order No. 20-14, which is the Order that is currently in place. These Orders have forced the closure of many businesses not deemed essential. Most forms of restaurants, retail, and cafes are prohibited from operating except for carry-out and delivery service or if constituting an “essential service”; and

Whereas, on June 12, 2020, the Alameda County Health Officer issued a press release notifying the public that, on June 19, 2020, it will be issuing a revised Health Order relaxing restrictions by reopening outdoor museums, outdoor restaurant dining, religious services, indoor/outdoor retail, and outdoor fitness classes; and

Whereas, on June 18, 2020, the Alameda County Health Officer issued Alameda County Health Order No. 20-14a, allowing for the reopening of indoor/outdoor retail, including malls, religious and cultural ceremonies, First Amendment events, outdoor dining, outdoor fitness classes, outdoor museums, outdoor historical sites, publicly accessible gardens, dog parks, and college sports; and

Whereas, the interim modifications to Oakland’s land use and operation ordinances, regulations and permits provided hereunder are intended to be consistent with, and facilitate implementation of, the requirements for reopening set forth in Alameda County Health Order No. 20-14a, which became effective at 8:00 a.m. on June 19, 2020; and

Whereas, the City also has an urgent public health and safety interest in helping its businesses, residents, and visitors create safe dining experiences that incorporate requisite physical distancing protocols to help prevent the spread of the virus. In anticipation of the relaxed restrictions of the new Health Order, the City seeks to institute a new, interim permit framework, so as to authorize the immediate use of sidewalks, rights-of-way, and private outdoor spaces for restaurants, cafes, and retail that effectively balance the needs of these businesses while facilitating effective physical distancing measures consistent with the Health Order; and

Whereas, COVID testing facilities are in high demand in Oakland and serve to ensure early detection of those who are infected with the virus. Since coronavirus is highly contagious, the approval of drive-thru, drive-in and other open non-residential COVID facilities as an accessory use to a medical facility helps to maintain social distancing while allowing for ventilation throughout the testing facility, reducing the spread of COVID-19 to health care providers, other hospital patients, and the public; and

Whereas, the City Administrator in his capacity as the Director of the EOC has authority “to promulgate orders, rules, and regulations on matters reasonably related to the protection of life and property and the preservation of public peace and order, in accordance with Article 14 of the California Emergency Services Act, [and such] rules and regulations must be confirmed at the earliest practicable time by the governing body as required by law;” and

Whereas, the economic impacts of COVID-19 are being felt throughout City of Oakland (“City”), and the City’s small businesses have been particularly hard hit; and

Whereas, the City’s Department of Economic and Workforce Development conducted a survey of more than 1,000 Oakland businesses about the impacts of COVID-19 and nearly seventy percent (70%) reported a decline of more than 40 percent (40%) in gross receipts year-over-year for March 2020; and

Whereas, more than eighty percent (80%) of survey responses were from small businesses with 10 or fewer employees, with 55 percent of business owners identifying as low- or very-low-income; and

Whereas, the surveyed businesses accounted for 2,780 jobs lost, with the majority of the reported job losses in the restaurant and retail sectors, and more than half located in low-income areas of Oakland; and

Whereas, a temporary series of programs (collectively, the “Flex Streets Program” and “COVID Testing Sites”) authorized by this Order is necessary for the protection of life and property and for the preservation of peace and order, by assisting businesses to quickly and safely operate consistent with the County’s Health Order, allowing for increased outdoor business activity and physical distancing to stop the spread of this virus, and permitting additional COVID-19 testing sites; and

Now, therefore, I, Edward D. Reiskin, City Administrator/Director of the Emergency Operations Center (EOC) of the City of Oakland, in accordance with the authority vested in me pursuant to Oakland’s Emergency Services Act, Oakland Municipal Code Chapter 8.50, specifically section 8.50.050.C.5.(a), hereby order the following:

1. **Use of Sidewalks and Parking Lanes**. This Order authorizes the Department of Transportation, through its Director (the “Transportation Director”), to implement this temporary program to streamline the permitting process for sidewalk cafes, restaurants and retail to use sidewalks and off-site public parking lanes. The Order also authorizes the City Administrator’s Office to implement a temporary program regulating Individual Food Vendors’ use of sidewalks and right-of-ways. Any permit granted under either program shall be revocable at any time at the discretion of the Transportation Director or City Administrator, respectively. Terms not defined herein shall have the meaning given to them in the O.M.C.
 - a. The Transportation Director is authorized to grant streamlined permits authorizing the use of the public sidewalk and off-site public parking lane fronting retail businesses to display and sell goods and merchandise and offer services, and restaurants and cafes to create and operate outdoor dining areas; provided that adequate disability access and paths of travel remain on such public sidewalks. The specific requirements of the program are set forth in **Attachment A**, made a part hereof and incorporated herein.
 - b. The new rules and regulations for the use of sidewalks and public parking lanes by Individual Food Vendors are set forth in **Attachment B**, made a part hereof and incorporated herein.
 - c. Any provision of the O.M.C. that would conflict with this program, including but not limited to O.M.C. Chapter 5.51, O.M.C. Chapter 12.08 and Title 17 are suspended, and any provision of the O.M.C. that would allow for a specific appeal process is suspended. The City shall not charge a fee for permits issued under this program.
 - d. The Transportation Director shall consult with the City Administrator’s Office, Fire Department, Police Department, Public Works, and Planning Bureau, as appropriate, to ensure the program is implemented safely, and the Transportation Director or City Administrator may delegate aspects of review and approval to such departments.

- e. This Order shall not authorize conduct that: (1) is prohibited by orders or directives of the Alameda County Health Officer or (2) violates federal or state law.
2. **Outdoor Retail and Dining Use of City Property.** In addition to any existing authority, the Director of the Department of Economic and Workforce Development (“EWD Director”) is authorized to create a temporary program, through the issuance of short-term license agreements, for permitted businesses who have established they are not eligible for permits under the other Sections of this Order, to use outdoor City property (i.e., City-owned parcels) for: (1) retail businesses to sell goods and merchandise and offer services, and (2) restaurants to place tables, chairs, and other dining elements for serving customers in an outdoor dining or café setting in a manner that complies with the new Health Order.
- a. Any temporary license executed to use City property under this program may be offered at below fair market value, and the requirements set forth in O.M.C. 2.42.110 suspended, for solely those licenses issued under this Order. Notwithstanding the foregoing, all licenses shall be entered into only if they meet the equity criteria that has been developed by the EWD Director in consultation with the Department of Race and Equity. Such equity criteria are set forth in **Attachment C**, made a part hereof and incorporated herein.
 - b. All licenses issued under this temporary program shall comply with the authority delegated to the City Administrator pursuant to O.M.C. Section 2.42.100, and any proposed license not meeting such requirements shall require the approval of the City Council by Ordinance. Additionally, all other contract terms required by Title 2 applicable to agreements entered into by City departments to implement this temporary program must be included unless the Department Head, together with the City Attorney and Director of Contracts Compliance, determines in writing that compliance with any term is not feasible due to the COVID-19 Local Emergency and is not required under federal and/or State law. Nothing in the foregoing suspends the requirement for approval of contracts as to form and legality by the City Attorney.
 - c. This Order shall not authorize conduct that: (1) is prohibited by orders or directives of the Alameda County Health Officer, or (2) violates federal or State law.
3. **Outdoor Dining, Retail or Cafe Approval on Private Property.** This Order authorizes the Director of the Planning and Building Department (“Planning Director”) to allow for the use of private outdoor space (e.g., private parking lots) for: (1) retail businesses to sell goods and merchandise and offer services, and (2) limited or full service restaurants to place tables, chairs, and other dining elements for serving customers in privately owned outdoor areas. The privately-owned outdoor areas must be located on the retail, restaurant, or café premises; or on property adjacent to the retail, restaurant, or café premises to which the applicant demonstrates, in writing, it has legal rights to such proposed uses.

The temporary program may also allow drive-through, drive-in, or other open non-residential facilities for COVID-19 testing and related COVID-19 medical activities on privately owned land as an accessory facility and accessory activity to an existing medical activity that is located within one thousand (1,000) feet of the proposed activity and to which the applicant demonstrates, in writing, it has legal rights to such proposed uses.

Such permits are subject to the rules and regulations attached hereto at **Attachment D** and shall be revocable at any time at the discretion of the Planning Director or his designee.

- a. To the extent any such use under the temporary program is not permitted by Title 17 (the Oakland Planning Code) or conditions of approval imposed by the Bureau of Planning or Planning Commission, such laws, regulations, or conditions are hereby suspended at the discretion of the Planning Director in order to issue temporary permits under the program. Any provision of Title 17 authorizing an appeal concerning this program are also suspended.
 - b. The user of any space authorized under this Order shall comply with all laws requiring accessibility for people with disabilities, and shall ensure the space and services do not interfere with the accessibility of the public open space to people with disabilities.
 - c. This Order shall not authorize conduct that: (1) is prohibited by orders or directives of the Alameda County Health Officer or, (2) violates federal or State law.
4. **Public Street Closures for Retail and Dining Use.** This Order creates a temporary program streamlining the approval by the Chief of Police of the temporary closure of public streets for the purpose of permitting: (1) retail businesses to display and sell goods and merchandise and offer services, and (2) restaurants and/or cafes to place tables, chairs, and other dining elements to offer outdoor dining. Permits under this program shall be subject to the rules and regulations set forth at **Attachment E**.
- a. Any provision of the O.M.C. that would conflict with this program, including but not limited to O.M.C. Section 12.08.060 and any provision of the O.M.C. that would allow for a specific appeal process are suspended. The City shall not charge a fee for permits issued under this program.
 - b. This Order shall not authorize conduct that: (1) is prohibited by orders or directives of the Alameda County Health Officer or (2) violates federal or State law.

Any permits or licenses issued under this Order shall expire upon the earlier to occur of: (1) one (1) month following the end of the local COVID-19 Emergency or (2) suspension, termination or replacement of this Order.

I FURTHER DIRECT that as soon hereafter as possible, this Order shall be filed in the Office of the City Clerk, posted on the City of Oakland website, and that widespread publicity and notice of this Order shall be provided to the public.

IN WITNESS WHEREOF I have hereunto set my hand this 19th day of June , 2020



Edward D. Reiskin
City Administrator/Director of Emergency
Operations Center, City of Oakland, California

Attest:



Asha N. Reed (Jun 18, 2020 15:39 PDT)

Asha Reed
City Clerk and Clerk of the City Council
City of Oakland, California

2946218v1

ATTACHMENT A

Temporary Outdoor Dining, Retail, Café Use of Sidewalks and Parking Lanes

I. Outdoor Dining, Retail or Café Use

The following rules and procedures shall apply to Temporary Sidewalk Dining, Retail or Cafe permits on sidewalks and parking lanes:

- A. Application. Any restaurant, retail or café use desiring a Temporary Sidewalk Dining, Retail or Café Permit shall first apply to the Department of Transportation and provide all information deemed necessary by the Transportation Director or his designee. The Transportation Director or his designee is hereby authorized and directed to generate standard application forms and adopt internal procedures for such purpose. Without limiting the foregoing, the Transportation Director or his designee may require a layout sketch or site plan and a minimum of two (2) photographs showing all sidewalk dining, retail or cafe elements (“Improvements”), utilities, sidewalks, and appropriate measurements with the application.

- B. Effect. The following terms and conditions shall apply to any Temporary Sidewalk Dining, Retail, or Cafe Permit issued by the City under this Order:
 - 1. The permit is for a permissive use only and the issuing of the permit shall not operate to create or vest any property rights in the permittee.
 - 2. The City shall have free and complete access to the public right-of-way in which Sidewalk Dining, Retail, or Cafe has been permitted for maintenance and repair of the right-of-way, and the permittee shall hold harmless the City for any damage that may be done by the City during maintenance and repair of the right-of-way.
 - 3. The permittee shall maintain the sidewalk area in a good and safe condition as long as the Temporary Sidewalk Dining, Retail, or Cafe Permit remains in effect. Permittee understands and acknowledges that, should the permittee, its agents, employees, vendors, or patrons, damage and/or disturb the right-of-way and/or the Sidewalk Dining, Retail, or Cafe Area, the permittee shall be solely responsible for repairing the destroyed/disturbed right-of-way to the City’s satisfaction.
 - 4. Permittee shall maintain a general liability insurance policy with combined single liability limits for personal injury or death and property damage in the amount of the liability limits set forth in the City’s application. The applicant shall name the City as an additional insured. The permittee agrees to provide proof of such policy to the City upon request.
 - 5. If alcoholic beverages will be served within the Sidewalk Dining, Retail or Café Area, the permittee shall maintain liquor liability insurance for the area under the same terms and conditions as those applying to general liability insurance.
 - 6. Permittee shall indemnify, defend, and hold harmless the City against any and all claims or suits for damages or injury arising from permittee’s or the permittee’s agents’, employees’, vendors’, and/or patrons’ use of the right-

of-way or the Sidewalk Dining, Retail, or Cafe area or from any activity, work, or act done, permitted, or suffered by permittee in or about the Sidewalk Dining, Retail, or Cafe Area, and shall further indemnify, defend, and hold harmless the City against and from any and all claims or suits arising from any breach or default of any performance of any obligation of permittee under this Order or the Temporary Sidewalk Dining, Retail, or Cafe Permit, and against and from all costs, attorneys' fees, expenses, and liabilities related to any claim or any action or proceeding brought within the scope of this indemnification.

7. Permittee shall not assign the Temporary Sidewalk Dining, Retail, or Cafe Permit without the prior approval of the City.
8. Any unlawful encroachments existing in the right-of-way shall be subject to removal and the permittee shall be responsible for labor and costs associated with such removal. Any encroachments existing in the public right-of-way shall be removed upon twenty-four (24) hours' notice given by the Department of Transportation of public service when such removal is necessary to repair or improve the right-of-way. If it is necessary to remove any encroachments, including but not limited to Sidewalk Dining Elements or Sidewalk Retail Elements, the permittee shall be responsible for labor and costs associated with removal and reinstallation.
9. In the event that the City Police, Fire, Public Works, Planning and Building, or Transportation departments determine that the location of an encroachment, including but not limited to Sidewalk Dining Elements or Sidewalk Retail Elements, constitutes an immediate physical danger to life, safety or health, the encroachment may be removed immediately without prior notice. If the City removes an encroachment, a notice of removal shall be sent to the permittee as soon as practicable under the circumstances. Any abandoned encroachment shall be subject to removal. For purposes hereof, 'abandoned' shall mean the vacating of the premises by the permittee for a period of seven (7) consecutive days or more. Any costs incurred to the City in restoring the public right-of-way to the condition that existed prior to the use of the Sidewalk Dining, Retail, or Cafe Area shall be the responsibility of the permittee.

- C. Inspection. The Transportation Director or his designee may perform or cause to be performed a site inspection of the proposed Sidewalk Dining, Retail, or Café Area to verify compliance with the requirements set forth herein prior to issuing a Temporary Sidewalk Dining, Retail, or Cafe Permit. The City's Fire Department, Fire Marshal, Police Department, and Building Inspections Division shall be authorized to inspect and determine whether applicants and permittees comply with and continue to comply with the rules and regulations governing sidewalk dining set forth herein, as may be amended.
- D. Decision. The Transportation Director is hereby authorized, after any necessary consultation with other City departments, to issue Temporary Sidewalk Dining, Retail, or Cafe Permits upon finding that the application meets all relevant standards set forth in this Chapter.
- E. Posting. The Temporary Sidewalk Dining, Retail or Cafe Permit shall be posted on the premises so as to be visible from the public right-of-way during all times that the sidewalk dining, retail, or café use is being conducted within the public right-of-way.

F. Design and Layout. The following standards shall govern the design and layout for Sidewalk Dining, Retail, or Cafes:

1. The width of the Sidewalk Dining, Retail, or Café Area shall not exceed the width of the frontage of the restaurant's property.
2. Permittees shall not obstruct a clear pedestrian path of at least six feet (6') at any time; provided, however, in areas of higher pedestrian traffic or activity, or in conditions that suggest the need for additional clearance, the Transportation Director or his designee may require a clear pedestrian path greater than six feet (6'). Any such clearance area must be free of all obstructions such as trees, parking meters, utility poles, fire hydrants, and similar encroachments in order to allow for adequate pedestrian movement. All services and patron activity provided within the designated public right-of-way shall occur within the designated area and shall not encroach within the minimum clearances for pedestrian passage at any time.
3. The Improvements shall not interfere with any utilities or other facilities such as utility poles, fire hydrants, signs, parking meters, mailboxes, and/or benches within the sidewalk or within the public right-of-way.
4. The Improvements shall not interfere with or obstruct any required clearance for maneuvering around any building, driveway, or other entrances or exits.
5. The Improvements shall not interfere with or obstruct any areas required for accessibility for disabled persons, whether patrons or employees.
6. The Improvements shall not interfere with or obstruct required ingress and/or egress for adjacent buildings set forth in the building code or otherwise.
7. The Improvements may not violate the vision clearance requirements set forth in the Oakland Municipal Code or by City design regulation.
8. Vision clearance will also be required when the Improvements are located adjacent to an alley or driveway; provided, however, the Transportation Director is authorized to modify such requirements when unusual circumstances exist or when public safety may be at issue.
9. No amplified music, whether live or recorded, shall be permitted within Sidewalk Dining, Retail, or Cafe Areas. No speakers, microphones, televisions or other audio or video devices shall be permitted within Sidewalk Dining, Retail, or Cafe areas.
10. No vending machines, carts, or objects for the sale of goods shall be permitted within Sidewalk Dining, Retail, or Café Areas.

ATTACHMENT B

Allowable Locations and Numbers of Individual Food Vending Facilities

The permitted location of individual Food Vending facilities is hereby regulated during the effective term of this Order, which serves to temporarily suspend O.M.C. Section 5.51.040, “Conflicting Provisions,” and O.M.C. Section 5.51.50.A, .B and .C, “Food Vending Program Permitted Area” for Food Vending facilities and replaces O.M.C. 5.51.50.A, .B and .C with the following location requirements:

- A. Food Vending may be located on publicly-owned property or in the public right-of-way in any commercial or industrial zoning district, subject to the requirements of Chapter 5.51 and its implementing Administrative Guidelines, with the exception of Section 5.51.50.A, .B, and .C. Additionally, individual Food Vending facilities are permitted on private property (such as a vacant lot) in the City wherever a Limited Service or Full Service restaurant is permitted under Title 17. Sidewalk Vendors (as defined in the Administrative Guidelines) may further operate as follows:
 - 1. Roaming sidewalk vendors may operate in any zoning district in the City, provided that during a transaction, they comply with applicable buffer distances.
 - 2. Stationary sidewalk vendors may operate in any zoning district not exclusively zoned residential, subject to the applicable buffer distances.

- B. A location for an individual Food Vending facility shall be permitted if it complies with the distances specified below:
 - 1. Food Vending facilities may be located in a parking lane and may vend from multiple locations, without limitation, as long there is a three hundred (300) foot buffer from another vendor or Limited or Full Service Restaurant, unless the vendor or Limited or Full Service Restaurant provides a written waiver, in which case the food vending facility may be permitted.
 - 2. Sidewalk Vendors (as defined in the Administrative Guidelines) operate on sidewalks and may vend from multiple locations, without limitation, provided they allow a one hundred (100)-foot buffer from another vendor or Limited Service or Full Service Restaurant unless the City Administrator or designee determines that the buffer is not necessary to protect public health and safety in a particular location, in which case the Sidewalk Vendor may be permitted.
 - 3. All Food Vending facilities must still maintain a three hundred (300) -foot buffer from a school serving children in kindergarten through high school between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, unless the Food Vending facility sells “healthy foods,” as defined in Administrative Guidelines authorized pursuant to O.M.C. Chapter 5.51, and receives written permission from supervising entity of the school.

- C. Individual food vending facilities cannot block or impede access to:
 - 1. Required parking or driveways;
 - 2. Bicycle racks;

3. Signal crossings;
 4. Pedestrian or bicycle routes;
 5. Emergency vehicle routes;
 6. Building entrances and exits;
 7. Required accessibility routes and curb cuts;
 8. Trash enclosure areas or access to trash bins/trash enclosures; or
 9. Other City facilities, as determined by the City Administrator or designee.
- D. All other location requirements set forth in O.M.C. Section 5.51.050.D through .F, (as further clarified in the Administrative Guidelines), shall still apply.

ATTACHMENT C

Equity Criteria for Temporary License of City Property Pursuant to Section 2 of the Order

1. Applicant's business is in an area of the City that has been disproportionately impacted or is particularly disproportionately vulnerable to the COVID-19 virus, as documented by data obtained by the City or provided by the applicant;
2. Applicant cannot otherwise feasibly use sidewalks, parking lanes, private outdoor areas, or rights-of-way as set forth in Sections 1, 3 and 4 of this Order enabling the temporary license; and
3. Applicant has demonstrated economic hardship related to the COVID-19 pandemic, and a business plan to address such hardship through temporary use of City Property.

ATTACHMENT D

Temporary Outdoor Dining, Retail, Café, or COVID-19 Testing Facility Approval on Private Property

I. Outdoor Dining, Retail or Café Use

- A. Any restaurant, retail use, or café desiring to offer outdoor dining, retail, or café services on private property shall first apply to the Planning Bureau and provide all information deemed necessary by the City's Planning Director, who shall develop an application form. The Planning Director is hereby authorized and directed to generate standard application forms and adopt internal procedures for such purpose.
- B. Standards for Temporary Outdoor Dining Areas on Private Property. Restaurants, retail, or cafés desiring Temporary Outdoor Dining, Retail or Cafe approval on private property shall comply with the following standards:
1. The restaurant, retail, or café use shall be properly licensed by appropriate state and local agencies to perform any activities, sales, and services, and the temporary use must be located on, or adjacent to, the business premises.
 2. The restaurant, retail, or café shall comply with all applicable laws relating to litter, noise, and other livability matters. The Planning Director or his designee may impose additional conditions or limitations relating to noise on the restaurant or cafe when the Planning Director or his designee finds that such additional conditions or limitations are necessary or appropriate based on the location of the new or additional outdoor dining, retail, or cafe area and the proximity of such area to residential areas, including without limitation existing residences, existing residential neighborhoods, and residentially-zoned properties.
 3. Unless authorized as part of a Sidewalk Dining, Retail or Cafe Permit, Outdoor Dining, Retail or Café Areas on private property shall not encroach within any public rights-of-way.
 4. Outdoor Dining, Retail or Café Areas shall not encroach into or interfere with required handicapped parking spaces.
 5. Outdoor Dining, Retail or Café Areas shall not interfere with safe pedestrian and vehicular access or access required to be maintained under the Americans with Disabilities Act (ADA).
 6. Outdoor Dining, Retail or Cafe Areas shall not encroach within or interfere with fire or other emergency access.
 7. Any sales and/or consumption of food and/or alcoholic beverages shall be in compliance with the provisions of any federal, state, and/or local laws and regulations governing the sale and consumption of alcohol.

8. Outdoor Dining, Retail or Cafe Areas shall comply with all applicable provisions of the Building and Fire Codes.
9. All Outdoor Dining or Cafe Areas shall comply with the Alameda County Health Order.
10. The Planning Director or his designee may impose other reasonable conditions or limitations to protect against adverse impacts from noise, parking, fire, people with disabilities, and travel.

II. COVID-19 Testing Facility Use

- A. The Planning Director is authorized to allow drive-through, drive-in, or other open non-residential facilities for COVID-19 testing and related COVID-19 medical activities on privately owned land as an accessory facility and accessory activity to an existing medical activity that is located within one thousand (1,000) feet of the proposed activity.
- B. Standards for COVID-19 Testing Facility on Private Property. COVID-19 Testing Facility uses on private property shall comply with the following standards:
 1. The COVID-19 Testing Facility shall be properly licensed by appropriate state and local agencies to perform any testing facility activities.
 2. The COVID-19 Testing Facility shall be an accessory facility and accessory activity to an existing medical activity that is located within 1,000 feet of the proposed activity.
 3. The COVID-19 Testing Facility must comply with all applicable laws relating to litter, noise, and other livability matters. The Planning Director or his designee may impose additional conditions or limitations relating to noise on the COVID-19 Testing Facility when the Planning Director or his designee finds that such additional conditions or limitations are necessary or appropriate based on the location of the COVID-19 Testing Facility and the proximity of such area to residential areas, including without limitation existing residences, existing residential neighborhoods, and residentially-zoned properties.
 4. Unless authorized as part of the permit, the COVID-19 Testing Facility on private property shall not encroach within any public rights-of-way.
 5. The COVID-19 Testing Facility shall not encroach into or interfere with required handicapped parking spaces.
 6. The COVID-19 Testing Facility shall not interfere with safe pedestrian and vehicular access or access required to be maintained under the Americans with Disabilities Act (ADA).

7. The COVID-19 Testing Facility shall not encroach within or interfere with fire or other emergency access.
8. The COVID-19 Testing Facility shall comply with all applicable provisions of the Building and Fire Codes.
9. The COVID-19 Testing Facility shall comply with the Alameda County Health Order.
10. The Planning Director or his designee may impose other reasonable conditions or limitations to protect against adverse impacts from noise, parking, fire, people with disabilities, and travel.

ATTACHMENT E

Temporary Public Street Closures for Retail and Dining Use

- A. The definition for short term encroachments set forth in O.M.C. Section 12.08.030 is hereby temporarily amended to also include the uses set forth in Section 4 of City Administrator Order No. 4, including retail, restaurant, and café uses.
- B. The permit requirements for short term encroachments into the right-of-way shall be the same as set forth in O.M.C. Section 12.08.060, except that:
 - 1. The duration of the short term encroachment may extend until one (1) month following the termination of the declaration of the COVID-19 Local Emergency, subject to the discretion of the Chief of Police, Fire Marshal, and City Administrator.
 - 2. The applicant need not be sponsored by or represent a local merchant association or community organization, nor shall semi-annual sponsorship be required.
 - 3. The limitation of one short term encroachment application per year is suspended.






CAO Emergency Order (COVID) No. 4 Flex Streets Program FINAL 6-19-20

Final Audit Report

2020-06-19

Created:	2020-06-19
By:	Ed Reiskin (ereiskin@oaklandca.gov)
Status:	Signed
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"CAO Emergency Order (COVID) No. 4 Flex Streets Program FINAL 6-19-20" History

-  Document created by Ed Reiskin (ereiskin@oaklandca.gov)
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Signature Date: 2020-06-19 - 10:39:20 PM GMT - Time Source: server- IP address: 99.110.51.69- Signature captured from device with phone number XXXXXXX1496
-  Signed document emailed to Asha N. Reed (areed@oaklandca.gov) and Ed Reiskin (ereiskin@oaklandca.gov)
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