

10-2.1642 Rooftop Dining Use and Regulations

- a) Purpose. The purpose of this section is to manage the development and operation of rooftop dining in order to enhance placemaking opportunities in commercial districts and simultaneously prevent adverse impacts; ensure compatibility with surrounding land uses; protect nearby businesses and residential neighborhoods from noise, lighting, and operational impacts; and maintain a healthy and balanced mix of commercial uses.
- b) An Administrative Use Permit is required. Rooftop Dining shall be subject to the approval of an Administrative Use Permit pursuant to Section 10-2.2506.
- c) Criteria: Rooftop Dining shall be permitted only in the following zones, subject to approval of an Administrative Use Permit:
 - (1) C-1, C-2, C-2A, C-2B, C-2-PD, C-3, C-3A, C-3B, C-3-PD, C-4, C-4A, C-4B, C-4-PD, C-5A, MU-1, MU-2, MU-3, MU-3A, MU-3B, MU-3C.
- b. Capacity and Design
 - 1. The rooftop dining area shall be designed, managed, operated, and maintained as an integral part of an associated permitted restaurant.
 - 2. The rooftop dining area and structures (railing, shade structures, etc.) shall be architecturally compatible with and integrated into the structure. Additional temporary accessory structures including arbors and sunshades are permitted with the approval of the Community Development Director or designee.
 - 3. The maximum number of occupants shall be determined based on the square footage, exits, facilities, and available parking (with the exception of the AACAP for parking standards), as evaluated through the Administrative Use Permit and the Building Official.
 - 4. Rooftop furniture and décor shall be weather-resistant, and be maintained in good condition.
 - 5. Standards for the rooftop dining structures include the following:
 - i. Shall be permanently affixed to the rooftop and not exceed a height of 10 feet above the roof surface. Except for temporary accessory structures as approved by the Community Development Director or designee.
 - ii. Maintain a minimum setback of five feet from all roof edges or parapets.
 - iii. The unenclosed accessory structure's height may exceed the maximum height allowed in the underlying zoning district by no more than 10 feet.

- iv. Rooftop dining operations shall be setback 20 feet from a property line that is contiguous to a residential zone.

c. Noise

1. An acoustical analysis may be required to address potential impacts on adjacent residential or sensitive uses, subject to the determination by the Community Development Director.
2. The Administrative Use Permit application for a rooftop dining shall include a noise mitigation plan that details the rooftop dining improvements, layout, and operations to ensure compliance with the Noise Ordinance. The noise mitigation plan shall include, but not be limited to, the following information and shall be incorporated in to the Administrative Use Permit conditions of approval:
 - i. A detailed layout of the rooftop dining and entertainment areas (if applicable), including seating arrangements, mechanical equipment, speaker locations, and any “back of house” (kitchen/staffing areas);
 - ii. Proposed hours of operation for the rooftop dining and any outdoor music or entertainment;
 - iii. Identification of any proposed amplified sound sources, including specifications and speaker location and direction;
 - iv. Description of proposed physical or operational noise control measures such as barriers, enclosures, sound-absorptive materials, or sound limiting systems; and
 - v. Procedures for ongoing noise monitoring, and response protocol to address noise complaints.

d. Operation

1. Rooftop dining hours of operation shall not exceed those authorized under the Administrative Use Permit.
2. No rooftop dining area shall serve alcoholic beverages unless such rooftop dining area provides full food service.
3. A Temporary Use Permit shall be obtained for any special events utilizing the use of the roof top restaurant per Municipal Code Section 10-2.2520(a).

e. Lighting

1. Rooftop lighting shall be downward-facing, shielded, and designed to not spill or direct glair onto adjacent properties while also providing a sufficient level of illumination for safety, access, and security purposes.

2. Lighting shall not blink, flash, oscillate, or be of unusually high intensity or brightness.
 3. The rooftop dining plans shall include a lighting plan that identifies the location, intensity, shielding, and direction of rooftop lighting.
- f. Screening and Privacy
1. Landscaping, screening walls, or other features may be required to protect the privacy of adjacent uses.
 2. Mechanical equipment shall be screened in compliance with Municipal Code Section 10-2.1530.
- g. Smoking
1. Smoking is prohibited on rooftop dining areas.
- h. Parking
1. The required parking for rooftop dining is regulated by Municipal Code Section 10-2.1706(a)(3), stating no additional parking is required for the first 12 seats or a number of outdoor seats equivalent to 25 percent of the number of indoor seats, whichever is greater. Thereafter, one parking space shall be provided for every six seats. No parking is required for rooftop dining areas located within the Artesia and Aviation Corridors Area Plan (AACAP) boundary as identified in Municipal Code Section 10-21707(b).
- i. Additional Administrative Use Permit Criteria.
1. In addition to the standard criteria to evaluate Conditional Use Permits, as identified in Municipal Code Section 10-2.2507(b), the additional criteria listed below shall be used in determining a project's consistency with the intent and purpose of this section:
 - i. The proposed rooftop dining area supports and enhances the vibrancy and economic activity of the surrounding area.
 - ii. The proposed design, location, and operation of the rooftop dining area minimizes potential noise, privacy, and light spillover impacts on adjacent properties.
 - iii. The proposed rooftop dining is compatible with surrounding properties and uses.
- j. Standard Conditions
- a. The conditions stated in the resolution or design considerations integrated into the project shall be deemed necessary to ensure the rooftop dining use is compatible with adjacent uses and protects the public health, safety, and general welfare. Such conditions may include, but shall not be limited to:

1. Hours of operation: Rooftop dining hours of operation shall be established in the Administrative Use Permit and shall consider adjacent uses and sensitive noise receptors when establishing the hours of operation.
2. Noise Mitigation Plan: The noise mitigation plan shall ensure that noise associated with rooftop dining does not impact adjacent uses. The noise mitigation plan may include specifics like the days and hours for the rooftop dining area, music and/or entertainment, noise regulating/monitoring systems, speaker locations, etc. The noise mitigation plan shall be incorporated into the conditions of approval for the Administrative Use Permit. The Community Development Director may require a noise study be completed by a licensed Acoustical Engineer, if determined necessary.
3. Lighting: All lighting for the rooftop dining shall be directed downward and shall not spill or direct glare onto adjacent properties.
4. Capacity and Layout: The occupancy and seating for the rooftop dining shall be set by the Building Division and the available parking for the property, if applicable.
5. Safety and Access: Rooftop access shall be limited to customers and staff through controlled interior access points. The use shall comply with California Building Code requirements for guardrails, fire separation, and occupancy loads.

d) Administrative Review and Enforcement

- 1) The Community Development Director, or designee, may require the operator to conduct a noise study and/or amend the noise mitigation plan if noise impacts are identified during the ongoing operation of the business.
- 2) The City may revoke or modify an Administrative Use Permit for rooftop dining if it is determined that the use creates a public nuisance, violates the Administrative Use Permit conditions, or impacts surrounding uses.
- 3) Regular compliance inspections may be conducted.