

# Interim Guidelines for Use of Public Highways for Outdoor Eating, Retail, and Public Gathering Spaces



## Introduction

This document provides guidance on how a portion of a state or town public highway can be used on a temporary basis for outdoor eating, retail activities, and social gatherings to help achieve the physical distancing recommendations intended to stop the spread of the Coronavirus. For this guidance, these areas are referred to collectively as **“temporary public gathering spaces”**. It describes the options available, issues that need to be considered, the municipal and state approval processes, and provides links to resources with additional information. It provides an orientation on the topic and is not a design guide or standard.

To meet COVID-19 physical distancing requirements, some restaurants, bars, and retail businesses may choose to serve customers outdoors. In some cases, a privately owned parking lot, alley, lawn, or other outdoor space that is part of the business property may be available. If those private options are not available, opportunities may exist to provide space for outdoor eating, retail, and other social gatherings on an adjacent public sidewalk or in a portion of a roadway. The use of public highway rights-of-way for temporary public spaces for a limited time, usually during warmer weather, has been happening around the country and in Vermont more frequently in recent years. The purpose is to test the techniques without making a permanent change while helping to support local businesses and create vibrant streets. In addition to spaces for outdoor eating, retail, and gathering areas, temporary demonstration projects also include bike lanes, sidewalks, enhanced crosswalks, different intersection configurations, and closing streets to motor vehicles. This interim guidance focuses only on spaces for outdoor eating, retail, public gatherings and road closures as options to help meet physical distancing requirements for restaurants and other retail businesses that normally serve customers in close quarters. Please consult the [State’s COVID-19 Recovery Resource Center](#) for the latest guidance to ensure businesses, communities, and individuals stay safe and healthy.

**Special Note on Federal Requirements:** For the duration of the COVID-19 crisis, the Federal Highway Administration has waived the requirement to pay fair market value for non-transportation uses of highways that have received federal funding in the past. Municipalities and the Agency of Transportation must note this waiver where applicable in their approval of temporary public gathering spaces in town or state highway rights-of-way.

## Options for Outdoor Eating and Social Gatherings in Public Highways

Parklets, pedestrian plazas and road closures are options that utilize public sidewalks and highways for temporary public gathering spaces.

**Parklets** are public seating platforms that convert curbside parking spaces into gathering spaces for people. Most parklets have a distinctive design that incorporates seating, greenery, and/or bike racks. Parklets may also utilize a portion of a sidewalk. In locations without curbside parking, the same concept can be used.



Figure 1. Parklet<sup>1</sup>

<sup>1</sup>Urban Street Design Guide, National Association of City Transportation Officials

# Interim Guidelines for Use of Public Highways for Outdoor Eating, Retail, and Public Gathering Spaces

## Options for Outdoor Eating and Social Gatherings in Public Highways

**Temporary Pedestrian Plazas** take advantage of excess space that often exists when roadways intersect at odd angles. A pedestrian plaza will generally provide more space than a parklet for seating, greenery, and other features but its effect on traffic flow needs to be carefully evaluated.



Figure 2. Conversion of Intersection to Temporary Pedestrian Plaza<sup>2</sup>

**Road closures** temporarily closing a street to motor vehicle traffic making a large space available for community gatherings and events. Given the amount of space available, road closures could provide outdoor eating and retail opportunities for multiple businesses. Of the three options, road closures will create the greatest disruption to traffic patterns, emergency vehicle access, and access for delivery vehicles and will require the most planning and public outreach. Although this option has the greatest impacts, many municipalities and the Vermont Agency of Transportation have experience successfully managing road closures for parades, bicycling and running races, other special events and for construction projects.

## Considerations

Changes to public sidewalks and roadways will impact a host of issues and need to be carried out thoughtfully. The following issues should be considered.

### Public Involvement and Notification

During normal times, demonstration projects in public highways involve a substantial amount of early and continuous public engagement over many months. Given the critical need to support local businesses during the COVID-19 pandemic, and the limited number of months outdoor eating and gatherings are comfortable in Vermont, extensive public outreach is not practical for temporary projects to be implemented during 2020. However, once a plan has been developed for a temporary public gathering space, all efforts should be made to notify the public before implementation. Common methods include press releases, postings on Front Porch Forum, posting signs in the area around the project site, and posting notices in other normal places within a town. Work with local downtown organizations or chamber of commerce to help provide public outreach and share information about the temporary projects. Adjacent property owners should also be directly notified.

### Safety

The project must be designed to ensure the safety of the public using the temporary gathering space, and those travelling through the site on foot, bike or in a motor vehicle. There must be adequate barriers between the people using the temporary gathering space and motor vehicles on the roadway (see the resource section for recommendations). The ability of drivers to see other vehicles, pedestrians and cyclists travelling along or across the roadway should not be obstructed. Special consideration is necessary near intersections, driveways, alleys, and other intersecting travel routes to ensure proper sight distances are provided so drivers can see oncoming pedestrians and vehicles. Changes in traffic patterns must be managed with signs, cones and other traffic control devices so drivers are warned as they approach the project location and have clear direction on posted speed and how to maneuver through any modified roadway configurations. Signs and other traffic control devices must by state law conform with the Manual on Uniform Traffic Control Devices.<sup>3</sup>

<sup>2</sup> Global Designing Cities Initiative <https://globaldesigningcities.org/publication/global-street-design-guide/streets/pedestrian-priority-spaces/pedestrian-plazas/example/>

<sup>3</sup> <https://mutcd.fhwa.dot.gov/>

# Interim Guidelines for Use of Public Highways for Outdoor Eating, Retail, and Public Gathering Spaces

## Considerations

### **Pedestrian Access**

Projects that use all or a portion of or connect to an existing sidewalk should be accessible by all and include bypass routes for pedestrians that meet ADA requirements for slope, width, ramps, and surface.

### **Parking**

On-street parking is often a sensitive topic so care must be taken to involve the businesses and residences that utilize parking spaces that may be converted to a parklet, and it may be necessary to find replacement parking in other locations.

### **Public Transit Access**

Consider if the project will interfere with transit routes and transit stops and if so, how will the interference be managed. Replacement bus stops must comply with ADA requirements.

### **Delivery Truck or Trash/Recycling Access**

Consider if the project makes deliveries or trash/recycling removal more difficult and if so, how deliveries or trash removal can be managed.

### **Emergency Access**

Check with local police and fire departments to ensure they will have the access necessary to respond to emergencies.

### **Public Utilities, Signs, and Street Trees**

Make sure the project does not interfere with public utilities, utility covers, valves, building standpipes, streetlights, traffic signage, street trees, etc.

### **Drainage**

Ensure that the components of a parklet or public gathering space do not impede stormwater runoff from roads and sidewalks.

### **Installation and Removal**

A safe work zone must be provided while the project is being installed and removed. The extent of the measures taken will depend on how long the installation may take, traffic volume, whether large trucks are frequent, speed and whether traffic flow will be affected during the installation and removal. On state highways, which generally have more traffic and trucks at higher speeds, a temporary traffic control plan may be required as part of the permit application described below. Municipalities should be consulted about their requirements.

### **Maintenance**

All the elements and features of a parklet, public gathering place, and road closure need to be maintained in good condition so they will continue to function properly. Trash removal and cleaning must also be provided. Maintenance will be the responsibility of the party requesting approval.

### **Insurance**

Approval of a temporary public gathering space may require proof of general liability insurance that names the municipality or Agency of Transportation as additional insured.

### **Public Hygiene and Public Safety**

Public spaces and temporary projects should ensure proper and frequent public hygiene and cleaning of seating areas, bicycle racks, trash cans, and other streetscape elements including restaurants seating areas and retail displays. These temporary investments should include signage and helpful prevention information that encourages users to stay home when sick, wash their hands frequently, sneeze and cough into their elbow, avoid behaviors like spitting, and most importantly practice physical distancing of at least six feet between themselves and others in public. Restaurant tables and seating must be available for all patrons and must allow for physical distancing of at least six feet between seated dining parties. It is encouraged that these temporary projects include hand washing and/or hand disinfecting and sanitizing materials in the space themselves. Consult the [Vermont Department of Health](#) and [COVID-19 Recovery Resource Center](#) for latest updates and guidance.

### **Considerations for Road Closures**

Public outreach is particularly critical for road closures due to the significant change in travel patterns. Identify a detour route that can safely accommodate the volume of traffic and type of vehicles, including large trucks. Proper signage and traffic control devices should be utilized. Be prepared to address concerns raised by property owners along the detour route. Depending on the duration of the closure, it may be necessary to develop a plan to accommodate deliveries by truck, access for business employees and customers/visitors, and access for residents along the closed road. Emergency vehicle access must also be addressed.

# Interim Guidelines for Use of Public Highways for Outdoor Eating, Retail, and Public Gathering Spaces

## Approval Process

### Town Highways

Temporary public gathering spaces or road closures within a town highway right-of-way require approval from the municipality in which they are located. Some municipalities, such as Montpelier and Burlington (see resources below), have guidelines and ordinances that spell out the approval process. However, most Vermont municipalities will not have specific requirements. Unless otherwise specified in an adopted ordinance (zoning bylaw or standalone ordinance), a temporary public gathering space within a town highway right-of-way will require approval by a Selectboard, City Council or Village Trustees. Other local requirements, such as approval for outdoor dining, special events, vendor permit, and liquor licenses may also apply. **Contact the Town Administrator, Town Manager or Town Planner for guidance.**

### State Highways

Temporary public gathering spaces or road closures proposed within a state highway right-of-way require approval from the Vermont Agency of Transportation in the form of a Section 1111 Access Permit. Right-of-way includes travel lanes, shoulders, and sidewalks and may extend several feet beyond the edge of paved or graveled surfaces. Expect more rigorous design and safety requirements on state highways because they tend to have higher speeds, more general traffic, and more trucks. Temporary public gathering spaces will only be allowed on State Highways with posted speeds of 40 miles per hour or less. Regardless of speed, approval will depend on location specific safety considerations. Permits will be issued for temporary use only and will have dates defined for when the right-of-way must be restored to its original use and condition. Approval from municipalities for outdoor dining, liquor licenses or other local requirements may also be required.

To help business owners or others seeking to create a temporary public gathering space along a state highway, the Agency of Transportation has established a task force of planners, engineers and permitting specialists that will advise on the design requirements and assist with the Section 1111 Access Permit Application. **To start the approval process, please contact Amy Bell, Planning Manager at 802-279-0783 or [amy.bell@vermont.gov](mailto:amy.bell@vermont.gov).**

Road closures may require approval from municipalities and the Vermont Agency of Transportation if the detour route involves both state and town highways.

This [on-line map](#) identifies town and state highways and can be used to zoom into a specific street or building to help determine whether state or local approval applies. The map also shows limited access highways which are not available under any circumstances for conversion to public gathering spaces.

## Resources

### The AARP Pop-Up Placemaking Tool Kit

The Tool Kit provides an introduction to the steps that should be followed under more normal circumstances to engage the public, plan and implement temporary “pop-up” projects within a roadway such as bike lanes, enhanced cross-walks, parklets and outdoor eating spaces. <https://www.aarp.org/livable-communities/tool-kits-resources/info-2019/pop-up-tool-kit.html>

### Interim Design Strategies Chapter of the Urban Street Design Guide [NACTO]

This link provides additional details on the critical, recommended, and optional design elements of parklets, temporary street closures, and interim public plazas all of which could support outdoor eating and markets <https://nacto.org/publication/urban-street-design-guide/interim-design-strategies/>

### Tactical Urbanists Guide to Materials Design [The Street Plans Collaborative]

This document provides guidance on the specific types of materials that can be used to build the components of temporary bike lanes, parklets and other public spaces. <http://tacticalurbanismguide.com/>

### Quick Build Design Material and Material Standards [Burlington Public Works Department]

This document provides design standards with configuration and size recommendations and material standards for a Vermont municipality. Refer to the chapters on parklets (1D) and pedestrian plazas (1E) for the design outdoor eating areas. [https://www.burlingtonvt.gov/sites/default/files/QUICK\\_BUILD%20GUIDE\\_0.pdf](https://www.burlingtonvt.gov/sites/default/files/QUICK_BUILD%20GUIDE_0.pdf)

### City of Montpelier Parklet Ordinance and Application

Montpelier’s ordinance outlines an approval process that could serve as a checklist for other municipalities that do not have an ordinance or experience with approving parklets. The application has an excellent one-page layout and design requirements for a parklet. <https://www.montpelier-vt.org/1009/Parklet-Information>

