



Temporary Outdoor Dining Permit during Shelter-in-Place Order

Permitting Standards and Requirements

City of Hayward - Development Services Department

BACKGROUND AND PURPOSE:

On June 12, 2020, the County of Alameda Public Health Department issued an [Press Release](#) to allow all retail, outdoor dining, limited religious services and outdoor museums to operate on June 19, 2020. In alignment with the state's guidance, indoor and outdoor retail and outdoor dining will be allowed at reduced capacity to ensure physical distancing and safety plans are in place. Residents and businesses are still strongly recommended to continue focusing primarily on pick-up and delivery options to limit lines and crowds. The outdoor dining operating standards temporarily allow local restaurants, eateries, and other food establishments to expand into open areas, parking spaces, and, if authorized, City-owned property (i.e. streets, City parking, sidewalks) to accommodate social distancing in a safe and organized manner.

A Temporary Outdoor Dining Permit is required prior to the use of private and/or public property for outdoor dining. Zoning Conformance Permit and Encroachment Permit fees will be waived. General questions can be directed to Planning Division at planning.division@hayward-ca.gov or by calling (510) 583-4216, Monday to Friday, 8 a.m. to 5 p.m. The use of City property, if requested, will be evaluated on a case-by-case basis and cannot be guaranteed. ***These regulations will be in place until October 31, 2020, unless otherwise stated, and the City of Hayward maintains the right to revoke permit for non-compliance.***

TEMPORARY OUTDOOR DINING OPERATING STANDARDS:

All businesses allowed to operate under the Health Officer Orders must complete the Site-Specific Protection Plan template (Order No. 20-14a Appendix A and C) found here: www.acphd.org/2019-ncov/covid-recovery.aspx (hyperlinked) and implement risk assessment and individual control measures, physical distancing, disinfecting and cleaning protocols, and employee training to prevent the spread of COVID-19.

Exemptions from Obtaining a Temporary Outdoor Dining Permit:

- If you already possess a signed agreement from the City of Hayward to use public property (i.e. some downtown Hayward businesses) to serve food outside your place of business and do not plan to serve beyond your immediate business frontage as indicated in the agreement, you do not need to apply for a temporary outdoor dining permit from the City.
- If the private property already includes a pre-approved designated area intended for outdoor dining/seating area (i.e. outdoor eating plaza, outdoor food court) at the time of its original development, you do not need to apply for a temporary outdoor dining permit from the City provided the site complies with social distancing requirements and County health standards.

General Standards Applicable to All Temporary Outdoor Dining Areas:

- ☐ Outdoor dining areas shall be a minimum dimension of six feet in each direction and shall not be located within 10-feet of a private or public driveway, or within 20-feet of a street intersection
- ☐ Dining furniture shall maintain social distancing from each other per the County Public Health Department.
- ☐ All walkways, paths of travel, and sidewalks shall maintain a minimum four (4) feet wide. Outdoor dining areas utilizing parking spaces shall be setback a minimum of four (4) feet from an abutting automobile parking space used to accommodate walking around the outdoor dining area.
- ☐ Outdoor dining barriers shall be between 30- and 48-inches in height, with the exception of landscaping elements (planter boxes) which may be taller. Visibility shall be maintained to the outdoor dining area.
- ☐ Outdoor dining area shall not utilize parking spaces required by the Americans with Disabilities Act (ADA).

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Permitting Standards and Requirements (Continued)

General Standards Applicable to All Temporary Outdoor Dining Plans (Continued):

- ☐ Pedestrian, bicycle, and vehicular paths of travel shall not be obstructed. Outdoor dining area shall not be separated from the food establishment by drive aisles, streets, or driveways.
- ☐ Refuse bins shall be placed within close proximity of the outdoor dining area and shall include bins for three waste streams (trash, recycling and organics). Bins may be shared between adjacent outdoor dining areas.
- ☐ Temporary canopies are permitted; however, if a canopy is 400 square-feet or larger, Fire Department approval is required. Please contact the Fire Prevention Office at (510) 583-4900 prior to installation.
- ☐ Outdoor cooking and/or grilling is prohibited. All food, meals, etc. shall be prepared indoors.
- ☐ Electrical and utility cables that cross drive aisles or paths of travel shall be taped down to avoid tripping hazards.

Additional Standards Specific to Private Property:

- ☐ Cumulative outdoor dining areas within a private parking lot shall not exceed 30% of the parking spaces on the lot. Multiple restaurants within a shopping center with a shared parking lot may partner together to create a food court and picnic area.
- ☐ Open areas such as courtyards and landscaped areas may be used for outdoor dining provided that the area meets the minimum standards prescribed within this document and County Public Health requirements.

Additional Standards Specific to Public City-Owned Property:

- ☐ Shall not be located on a street with posted speed greater than 25 MPH. Shall not be at corners or within 10-feet of a driveway.
- ☐ If located within a municipal parking lot, cumulative outdoor dining areas shall not exceed 30% of the parking spaces on the lot. ADA parking spaces shall not be utilized.
- ☐ No permanent furniture shall be placed and/or installed within public right-of-way.

Other Considerations:

- Sale of Alcoholic Beverages Outdoors. If you already possess a current license from the Department of Alcoholic Beverage Control (ABC) to serve alcoholic beverages directly outside your place of business and do not plan to serve said beverages beyond your licensed premises, you do not need a temporary license to serve from the ABC. However, if you plan to serve alcoholic beverages beyond your licensed premises, then you will need to complete and submit a COVID-19 Temporary Catering Authorization Application (see attached).

Businesses shall not serve alcoholic beverages for on-site consumption beyond their authorized premise prior to obtaining approval from ABC. Once obtained, business owners shall forward a copy of their ABC permit to Senior Detective Gabrielle Wright (Police Department—Vice Unit) at gabrielle.wright@hayward-ca.gov or drop a copy off at the Hayward Police Department at 300 West Winton Avenue, Hayward CA.
- Amplified sound shall be limited; Outdoor dining areas shall still adhere to the City's Noise Ordinance Section 4-1.01 of Hayward Municipal Code.
- Temporary signage shall be required to adhere to [Section 10-7.600 of the Hayward Municipal Code](#).



Temporary Outdoor Dining Permit during Shelter-in-Place Order

Permit Application Form Instructions

City of Hayward - Development Services Department

HOW TO APPLY FOR A TEMPORARY OUTDOOR DINING PERMIT:

Complete and submit the required documents listed below via email to planning.division@hayward-ca.gov at least three (3) business days prior to your proposed activity date. Note: A typical e-mail only allows a total attachment size of 10 MB. If your documents are significant in size, consider uploading them to a server (OneDrive, Google Drive, DropBox, etc.) and provide a download link. For any questions, please contact the Planning Line at (510) 583-4216, Monday through Friday, 8 a.m. to 5 p.m. Please note that Hayward City Hall offices, located at 777 B Street Hayward CA 94541, are closed until the Shelter-in-Place Order is lifted.

Required Submittal Document Checklist:

- ☐ Temporary Outdoor Dining Permit Application
- ☐ Outdoor Dining Site Plan (See Below for Requirements)
- ☐ Barricade Inventory List and/or Photos - (e.g. planter boxes, barricades, fencing, high visibility traffic cones)
- ☐ Written Authorization from Private Property Owner (Shall be Signed and Dated)
- ☐ Completed Affidavit to Accept Terms and Operational Standards (See Page 5)
- ☐ Temporary ABC Permit for Expanded Area of Service of Alcoholic Beverages, if applicable

For Use of City of Hayward Property:

- ☐ Minimum \$1,000,000 (one-million dollar) liability insurance certificate and additional insurance endorsement with the City of Hayward listed as additionally insured. For businesses within the Downtown Hayward vicinity, applicants shall also list the "Downtown Hayward Improvement Association (DHIA)" as additionally insured.
- ☐ Completed Waiver of Liability and Indemnity Agreement
- ☐ Any additional information, as required, by the City of Hayward Public Works Department

Outdoor Dining Site Plan Requirements. Provide a site plan with the following information:

- ☐ Site Plan shall be drawn to scale (i.e. 1/4 inch = 1-foot). Show location of restaurant entrance;
- ☐ Location of all uses of private/public property and public rights-of-way (streets, sidewalks, medians);
- ☐ Location and dimensions of any canopies of structures to be used for the dining area(s);
- ☐ Location and dimensions of any barricades to be used to separate vehicular traffic from the proposed temporary outdoor dining location;
- ☐ Seating plan of all dining furniture to be used and distances from each other and waiting area;
- ☐ Identify paths of travel for pedestrian traffic to safely navigate to/from the outdoor dining area;
- ☐ Location of nearby landfill, recycle, and compost bins for use by patrons;
- ☐ Location of nearby parking, including standard and ADA spaces and dimensions from each other.



Temporary Outdoor Dining Permit during Shelter-in-Place Order
Permit Application Form
City of Hayward - Development Services Department

BUSINESS AND PROPERTY INFORMATION:

Business Name: _____ Mailing Address: _____

Company Owner/Contact: _____

Phone: _____ Email Address: _____

Property Owner Name/Contact: _____

Phone: _____ Email Address: _____

TEMPORARY OUTDOOR DINING INFORMATION:

Outdoor Dining Area Location (please select all that apply)

☐ Private Property ☐ City-Owned Public Property (e.g. on-street parking spaces, sidewalk)

Business Address: _____

**Each business location requires a separate Temporary Outdoor Dining Permit*

Business Phone: _____ Business Email: _____

Proposed Setup Date: _____ Proposed Start Date of Outdoor Dining: _____

Days of Outdoor Dining: _____ Hours of Outdoor Dining: _____

Are alcoholic beverages planned to be served outdoors? ____ YES ____ NO

If YES, please indicate the type of ABC License for the establishment: _____

Please list and describe all furniture that will be used for outdoor dining and where it will be located:

Bathroom Monitoring (if applicable)

Will portable toilets and hand-washing stations be provided? ____ YES ____ NO

Quantity of Regular Toilets _____ ADA Approved Toilets _____ Hand Washing Sinks _____

Disinfection will be performed by: _____ How often: _____

**If portable facilities will not be provided, provide plan to restroom facilities within immediate area of event.*

Other Items.

Where will waste bins for landfill, recycle, and compost be located? ____ INSIDE ____ OUTSIDE

Do you plan to utilize sound amplification? ____ YES ____ NO If YES, describe: _____

Who will be responsible for cleaning the outdoor dining area? _____



Temporary Outdoor Dining Permit during Shelter-in-Place Order Affidavit and Waiver of Liability and Indemnity Agreement City of Hayward - Development Services Department

AFFIDAVIT OF APPLICANT TO ACCEPT PERMIT TERMS AND OPERATIONAL STANDARDS

I certify that the information contained in the foregoing application is true and correct to the best of my knowledge and belief and that I have read, understand, and agree to abide by the rule and regulations governing the proposed special event. I understand that this application is made subject to the rules and regulations established by the City Council and/or the City Manager or the City Manager's designee. I agree to comply with all other requirements of the City, County, State, and Federal Governments, and any other applicable entity which may pertain to the use of the event venue and the conduct of the event. I agree to abide by these rules and further certify that I, on behalf of the Host Organization, am also authorized to commit that organization, and therefore agree to be financially responsible for any costs and fees that may be incurred by or on behalf of the event to the City of Hayward. I understand the City maintains the right to revoke said permit for non-compliance.

Name of Applicant: _____

Printed Name of Applicant: _____

Signature of Applicant: _____ Date: _____

Printed Name of Property Owner: _____

Signature of Property Owner: _____ Date: _____

PLEASE COMPLETE FOR USE OF CITY OF HAYWARD OWNED PROPERTY

WAIVER OF LIABILITY AND INDEMNITY AGREEMENT

In consideration of participation in this program and the use of the City's facilities and premises, and to the maximum extent permitted by law, THE UNDERSIGNED SHALL, at their own expense, indemnify and defend, and hold harmless the City of Hayward and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, fines, expenses and costs (including, without limitation, claims expenses, attorney's fees, costs and fees of litigation) of every nature, whether actual, alleged or threatened, arising out of or in connection with the participation of the undersigned and the undersigned employees, in the program.

In addition, the undersigned RELEASES, WAIVES, DISCHARGES, AND COVENANTS NOT TO SUE THE CITY OF HAYWARD, its officers, employees and agents ("the City") for any loss or damage, and any claim or demands therefore arising out of or in connection with the participation of the undersigned and the undersigned's employees, in the program, whether caused by the negligence of the City or otherwise, while the undersigned is in, upon, or about the premises or any facilities or equipment therein.

I have read and voluntarily sign this release and waiver of liability and indemnity agreement.

Name of Applicant: _____

Printed Name of Applicant: _____

Signature of Applicant: _____ Date: _____

CITY STAFF USE ONLY:

Application #	Date Filed:	Received By:
Routed to:	Maintenance Services	Transportation
		Engineering
Permit Valid Beginning:		

COVID-19 TEMPORARY CATERING AUTHORIZATION APPLICATION

Before completing this application, please review Form ABC-218 CV19 Instr. for important information regarding the COVID-19 Temporary Catering Authorization.

Instructions: Indicate the license number this temporary authorization will apply to in the appropriate box and then complete sections #1 and #2. Once complete, submit to the local ABC office with a non-refundable payment in the amount of \$100.00. Acceptable forms of payment are business/personal check, cashiers check or money order. You must also submit Form ABC-253 which clearly identifies where the area is in relation to the existing licensed premises. If you are entering into an agreement with another person/entity for meal service, you must also submit a copy of the agreement or contract which establishes the details of this business relationship. Incomplete or inaccurate applications may result in delay or denial of the application request. If approved, a COVID-19 Temporary Catering Authorization will be sent to you via the email address you provide below. If you do not have a valid email address, the authorization will be mailed to your premises.

LICENSE NUMBER

RECEIPT NUMBER (FOR ABC USE ONLY)

TOTAL FEE

SECTION 1 (Application Details And Licensee Acknowledgment)

1. LICENSEE NAME(S) (If an individual, first name, middle name, last name.)		2. CONTACT PERSON	3. CONTACT PHONE NUMBER
4. LICENSED PREMISES ADDRESS		5. EMAIL ADDRESS	
6. DESCRIPTION OF EXPANDED AREA (Adjacent suite, sidewalk, parking lot, etc.) You must also complete and submit Form ABC-253 which identifies where the expansion is in relation to the existing premises.			
7. DESCRIPTION OF HOW THE EXPANDED AREA WILL BE DELINEATED (Theater style stanchions and rope, temporary fencing, etc.)			
8. WILL THE EXPANDED AREA BE SHARED WITH ANY OTHER PERSON <input type="checkbox"/> Yes <input type="checkbox"/> No		9. ARE YOU CONTRACTING WITH ANOTHER PERSON FOR MEAL SERVICE (If yes, you must attach a copy of the agreement) <input type="checkbox"/> Yes <input type="checkbox"/> No	
10. DO YOU HAVE LEGAL AUTHORITY TO USE THE REQUESTED AREA <input type="checkbox"/> Yes <input type="checkbox"/> No		11. WHAT IS YOUR LEGAL AUTHORITY TO USE THE AREA (Valid lease, rental contract, city permit, etc.)	

IN COMPLETING THIS APPLICATION FOR A COVID-19 TEMPORARY CATERING AUTHORIZATION, I ACKNOWLEDGE ALL OF THE FOLLOWING:
Check all of the boxes below. Failure to acknowledge all of the below may result in delay or denial of the application

- ☐ The requested expansion and its intended operation is and must remain consistent with state and local health and safety directives. Additionally, I have forwarded a copy of this application request to the appropriate local law enforcement agency.
- ☐ This authorization is limited to service of those alcoholic beverages authorized by the applicant license type.
- ☐ If approved, the authorization will be limited to service of alcoholic beverages during times in which bona fide meals are being served in the expanded area, whether by us or another person/entity under agreement with us.
- ☐ Except as to any conditions that the Department has determined will not be enforced under other Notices of Regulatory Relief, any operating conditions in place for the existing licensed premises will apply to the temporarily expanded area.
- ☐ If the Department determines that operation of the temporarily expanded area is contrary to public health, safety, or welfare, new or additional operating conditions may be added to the authorization at the time of or after its issuance.
- ☐ If the temporarily expanded area is being shared with other ABC licensees, we will be held jointly responsible for any violations that may occur within the shared area.
- ☐ If approved, the authorization may be canceled by the Department for reasons including, but not limited to: 1) upon termination of the temporary program granting the issuance of this authorization; 2) for violations of any law, rule, ordinance, or directive pertaining to business activities conducted on the premises and expanded area; 3) for negatively impacting nearby residents; 4) upon objection by local law enforcement; 5) if in the discretion of the Department continuance of the permit will negatively impact the public health, safety, or welfare.

SECTION 2 (Licensee Declaration And Signature)

I declare under penalty of perjury that to the best of my knowledge these statements are true and correct.

LICENSEE SIGNATURE

DATE SIGNED

SECTION 3 (FOR ABC USE ONLY)

ABC-253 ATTACHED <input type="checkbox"/> Yes <input type="checkbox"/> No	MEAL PROVIDER CONTRACT REQUIRED <input type="checkbox"/> Yes, attached <input type="checkbox"/> No	IS MEAL PROVIDER A LICENSEE ALSO <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	APPLICATION APPROVED <input type="checkbox"/> Yes <input type="checkbox"/> No
APPROVAL /DENIAL BY (ABC Official Name)		ABC OFFICIAL SIGNATURE	DATE SIGNED

COVID-19 TEMPORARY CATERING AUTHORIZATION INFORMATION

Purpose of a COVID-19 Temporary Catering Authorization

The COVID-19 Temporary Catering Authorization is intended to assist qualified hospitality businesses with reopening in a manner that is consistent with local and state health and safety directives. This specifically includes temporarily expanding the licensed area of a qualified business to accommodate patrons while abiding by social distancing guidelines and directives.

Who May Obtain a COVID-19 Temporary Catering Authorization

Any licensee with on-sale retail privileges may qualify for a COVID-19 Temporary Catering Authorization. A Caterer's Permit (Type 58) is not required to qualify for this authorization. The COVID-19 Temporary Catering Authorization authorizes the on-site consumption of those alcoholic beverages for which the licensee has on-sale privileges; on property that is adjacent to the licensed premises, that is under the control of the licensee, and where bona fide meals are being served. For purposes of the COVID-19 Temporary Catering Authorization, bona fide meals may be prepared and served by the licensee or any other person or business under an agreement with the licensee.

A COVID-19 Temporary Catering Authorization will only be considered for those businesses located in counties which have loosened restrictions on "in-person dining". Applications submitted for counties which are not currently allowing this type of activity will be returned.

Acceptable Locations for a COVID-19 Temporary Catering Authorization

Qualified businesses may apply for a COVID-19 Temporary Catering Authorization that temporarily expands their existing licensed premises to include an area that is adjacent to the licensed premises, under the control of the licensee, and where bona fide meals are being served. If approved, the authorization will be limited to service of alcoholic beverages during times in which meals are being served in the expanded area, whether by the licensee or another person under agreement with the licensee. Adjacent areas under the control of the licensee include, but are not limited to:

- indoor areas that are accessible from within the licensed premises but not currently licensed;
- outdoor areas that are accessible from the licensed premises but not currently licensed;
- indoor and outdoor areas under the control of the licensee and one or more other businesses;
- parking lots;
- sidewalks and other public thoroughfares that are closed to public access during the period of service;
- other areas within close proximity to the licensed premises that are immediately accessible to the licensee, and that are secured by and under the control of the licensee, at the discretion of the Department.

In all areas approved under the COVID-19 Temporary Catering Authorization, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises. Violations of these provisions, as well as the terms and conditions of the COVID-19 Temporary Catering Authorization, may be grounds for suspension or revocation of the licensee's license, as though the violation occurred on the licensed premises. The COVID-19 Temporary Catering Authorization may be immediately canceled by the Department if any violations occur within the temporarily authorized area or within the permanently licensed premises.

If the temporarily authorized area is being utilized by one or more other licensees, all licensees sharing the area will be jointly responsible for compliance with all applicable laws and rules pertaining to their respective licenses and authorizations and for any violations that may occur within the shared common temporarily authorized area. If at any point a licensee wants to terminate its liability for a shared area, it must cancel its COVID-19 Temporary Catering Authorization.

How to Apply for a COVID-19 Temporary Catering Authorization

If you are a qualified business, you may apply for a COVID-19 Temporary Catering Authorization by submitting a completed COVID-19 Temporary Catering Authorization Application (Form ABC-218 CV19) to your nearest ABC office. You must also submit a Supplemental Diagram (Form ABC-253) which clearly identifies where the requested area is in relation to the existing licensed premises. If you are entering into an agreement with another person/entity for meal service, you must also submit a copy of the agreement or contract which establishes the details of this business relationship. The fee for a COVID-19 Temporary Catering Authorization is \$100.00. This fee is non-refundable regardless of whether the application is approved or denied.

Depending on the circumstances involving the temporary expansion you are requesting, the office accepting the application may also require that you submit additional forms. Each qualified licensed location may apply for only one COVID-19 Temporary Catering Authorization. However, a single authorization may include multiple adjacent areas under the licensee's control. Prior to submitting this application, it is your responsibility to:

- ensure you have legal authority to use the area(s) requested;
- ensure the temporary expansion request has the approval of applicable local agencies (i.e., zoning, law enforcement);
- ensure the temporary expansion request is being made in accordance with applicable city, county, and state guidelines regarding social distancing and the legality of your business being open for in-person service (This may vary by jurisdiction);
- ensure the temporary expansion request will not negatively impact the surrounding area (i.e., residences, nearby businesses).

Failure to do any of the above may result in denial of the application; or an immediate cancellation of the authorization if one has been issued and any of the above is subsequently determined to have not been met.

If your application for a COVID-19 Temporary Catering Authorization is approved, the approving office will send you a COVID-19 Temporary Catering Authorization via email. If you prefer, the authorization can be sent to you via U.S. mail as opposed to email. The authorization must be kept on-site along with the diagram of where the temporarily expanded area is in relation to the existing licensed premises (Form ABC-253). Pursuant to the Notice of Regulatory Relief which allows for the issuance of a COVID-19 Temporary Catering Authorization, businesses located in counties that have lifted restrictions on in-person dining may begin operating in the requested area(s) upon submission of a completed application and payment of the \$100 fee. However, please note that if the application is subsequently denied you will have to cease operation in the requested area(s) and will not be entitled to a refund. If your application for a COVID-19 Temporary Catering Authorization is denied, you will be notified of the denial along with the reason(s) which resulted in its denial.

If, after issuance of a COVID-19 Temporary Catering Authorization, you want to make changes to the temporarily authorized area(s) or add an additional area, you will need to complete and submit a new application and payment in the amount of \$100. If approved, the new authorization will replace the existing authorization on file.

Additional Information

If approved the COVID-19 Temporary Catering Authorization may be canceled as follows:

- for reasons indicated previously in this document;
- upon the termination of this COVID-19 Temporary Catering Authorization program;
- for any violation of the ABC Act, or for violation of applicable laws, rules, ordinances, and other directives pertaining to business activities conducted on the premises and expanded area;
- for disturbance of the quiet enjoyment of nearby residents;
- upon objection by local law enforcement;
- if operation of the temporarily authorized area is inconsistent with State or local public health directives, including social distancing directives or guidance;
- if in the discretion of the Department continuance of the COVID-19 Catering Authorization will negatively impact the public's health, safety, or welfare.

Canceled COVID-19 Temporary Catering Authorizations will not be refunded.

Alcohol Beverage Control (ABC)

COVID-19 Links

ABC Website

<https://www.abc.ca.gov/>

ABC COVID-19 Webpage with revised regulations

<https://www.abc.ca.gov/law-and-policy/coronavirus19/>

FAQ about COVID-19 Temporary Catering Authorization (Expansion)

<https://www.abc.ca.gov/law-and-policy/coronavirus19/frequently-asked-questions/>

COVID-19 Temporary Catering Authorization Application

<https://www.abc.ca.gov/wp-content/uploads/forms/ABC218CV19.pdf>