



# Minor Outdoor Dining Permit

## Permitting Standards and Requirements

### City of Hayward - Development Services Department

The Minor Outdoor Dining Permit considers outdoor dining ancillary to any approved restaurant use and allows local restaurants, eateries, and other food establishments to expand into open areas and parking spaces on private property or City-owned property (i.e. streets, City parking, sidewalks) subject to certain standards outlined below. This document provides a list of operating standards and permit requirements for Minor Outdoor Dining.

Installation of permanent improvements to support outdoor dining including but not limited to building additions, permanent installations and built-in seating that would permanently alter the site or building may be considered a major expansion and will be subject to review and approval of an Administrative Use Permit (AUP) and subject to the standards provided in the applicable zoning district.

#### **EXEMPTIONS:**

- If you already possess an encroachment permit or other 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 Minor 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 Minor Outdoor Dining Permit from the City provided the site complies with County health standards.

#### **OPERATING & DESIGN STANDARDS APPLICABLE TO ALL PERMITS:**

- The outdoor dining area must be located on or adjacent to a property with a legally established eating and drinking establishment (including bakery, coffee/espresso shop, delicatessen, restaurant, bar).
- Outdoor dining areas shall have a minimum dimension of six feet in each direction and shall not be located within 10 feet of a private or public driveway, street or alley. In addition, outdoor dining areas shall not be within five (5) feet of any driveway apron or a line tangent to any part of the curb return.
- The outdoor area may have a minimum of three two-person tables and a maximum of five two-person tables. Outdoor dining areas that exceed five two-person tables shall be considered a major expansion of the use and subject to AUP approval, parking requirements and other applicable standards by zoning district.
- Outdoor dining areas shall not be separated from the food establishment by drive aisles or driveways.
- Outdoor dining shall be located adjacent to or across the business frontage(s). Outdoor dining (tables, chairs) may expand to occupy a portion of the adjacent business owner's frontage if the business owner obtains an authorization letter from adjacent business owner(s) stating that the impacted business owners have agreed to allow their frontage to be used. Such permission may be revoked by impacted adjacent business at any time.
- All private walkways, paths of travel, and sidewalks within the application site shall maintain a minimum of four (4) foot width.
- Pedestrian, bicycle, and vehicular paths of travel shall not be obstructed.
- Outdoor dining areas shall not be located within required parking spaces, including ADA accessible spaces, ADA loading areas, and designated loading zones.
- Open areas such as courtyards and landscaped areas not being used for stormwater control may be used for outdoor dining provided that the area meets the minimum standards prescribed within this



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document. Landscaping shall not be removed to accommodate outdoor dining.

- Outdoor cooking and/or grilling is prohibited unless authorized under a separate land use permit such as a Temporary Administrative Use Permit for seasonal outdoor cooking. Otherwise, all food, meals, etc. shall be prepared inside a building.
- Electrical connections. All wiring and electrical cords must be exterior rated, GFCI protected, and UL listed. Cords must not create tripping hazards on the sidewalk and must be hung to allow for a minimum clearance of 10 feet above the sidewalk. The use of generators is prohibited. Businesses are not allowed to tap into existing City electrical connections such as twinkle light outlets or streetlight poles.
- Portable space heaters are permitted if placed in accordance with the manufacturer's recommendation and located at least two feet from the edge of any umbrella canvas, tree foliage, and any other flammable object or material. Heaters are not permitted directly under umbrellas but may be placed near them if clearances are maintained.
- Barriers may remain outside however all moveable outdoor dining furniture, umbrellas, canopies, portable space heaters, refuse bins and other equipment shall be stored inside or locked and secured outside of the business when the business is closed.
- Outdoor furniture: Plastic tables and chairs are prohibited on B and Main streets.
- Amplified sound unless otherwise permitted with a use permit is prohibited. Outdoor dining use is subject to the [Hayward Noise Ordinance Section 4-1.01 of Hayward Municipal Code](#).
- Refuse bins shall be placed within 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.
- All outdoor dining spaces shall be designed to conform with applicable provisions, rules, regulations and guidelines of the California Building Code and Americans with Disabilities Act.
- Temporary (6 months or less) canopies are permitted provided they are properly secured against the wind; canopy/membrane structures exceeding 400 square feet requires Fire Department approval Please contact the Fire Prevention Office at (510) 583-4900 prior to installation.
- Outdoor dining barriers shall be between 30- and 48-inches in height, except for landscaping elements (planter boxes) which may be taller. Visibility from the restaurant and adjacent walkways shall be maintained to the outdoor dining area.
- New signage shall be required to apply for a Sign Permit with the City and adhere to Section 10-7.600 of the Hayward Municipal Code.
- Alcohol Service.** 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 an additional license to serve from the ABC. Businesses shall not serve alcoholic beverages for on-site consumption beyond their authorized premises prior to obtaining approval from ABC. Once obtained, business owners shall submit a copy of their ABC permit to the City's Planning Division along with the Outdoor Dining Permit and provide a copy to the Police Department's Vice Unit Hayward Police Department, Vice Unit, 300 West Winton Avenue, Hayward CA.



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#### **Additional Standards Specific to Private Property:**

- Parking spaces within a private parking lot may be utilized for outdoor dining provided that the conversion will not result in a reduction of parking below what is required in the Hayward Municipal Code.
- Multiple restaurants within a shopping center with a shared parking lot may partner together to create a food court and picnic area provided that the conversion of parking spaces will not result in a reduction of parking below what is required in the Hayward Municipal Code.
- Open areas such as courtyards and landscaped areas not utilized for stormwater detention and treatment purposes may be used for outdoor dining provided that the area meets the minimum standards prescribed within this document.

#### **Additional Standards Specific to Public City-Owned Property:**

- Shall not be located on an arterial and shall not be located on a street with posted speed greater than 25 MPH.
- Outdoor dining fixtures and furniture shall not be located within 10 feet of a driveway, alley or street intersection as measured from the outside edge of the travel way.
- No permanent furniture or footing shall be placed and/or installed within public right-of-way.
- Shall require an Outdoor Dining License Agreement with the business owner and may require an encroachment permit to construct any fencing or railing. Please contact the Development Review Engineer at [planning.division@hayward-ca.gov](mailto:planning.division@hayward-ca.gov) or at 510-583-4216 to inquire whether an encroachment permit is required.

#### **Required Submittal Document Checklist:**

- Minor Outdoor Dining Permit Application Checklist
- Outdoor Dining Permit Fee
- Outdoor Dining Site Plan that shall include:
  - Site Plan shall be drawn to scale (i.e. ¼ inch = 1-foot). Show location of restaurant entrance;
  - Location of all proposed uses of private/public property and public rights-of-way (streets, sidewalks) and distance to intersections and driveways;
  - Location and dimensions of any canopies or 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 outdoor dining location;
  - Location and type of space heater and distance to canopies/umbrellas, tree foliage, and any other flammable object or material;
  - Cut sheets of tables and chairs to be used as outdoor furniture. Plastic tables and chairs are prohibited on B and Main streets;
  - Seating plan of all dining furniture to be used and distances from each other and waiting area;
  - Identify paths of travel for pedestrian traffic, including Americans with Disabilities Act (ADA)-



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compliant pathways, to safely navigate between the restaurant and the outdoor dining area;

- Location of nearby landfill, recycle, and compost bins for use by patrons;
  - Location and number of nearby parking spaces, including standard and ADA spaces and dimensions from each other.
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- Barricade Inventory List and/or Photos, with dimensions (e.g. planter boxes, barricades, fencing, furniture)
  - Owner Authorization (for private property)
  - (If applicable) ABC Permit for Expanded Area of Service of Alcoholic Beverages.
  - (If applicable), if outdoor dining on private property expands to occupy a portion of the adjacent business owner's frontage, provide authorization letter from adjacent business owner(s) stating that the impacted business owners have agreed to allow their frontage to be used.
  - (For public right of way) Shall require an Outdoor Dining License Agreement with the business owner and may require an encroachment permit. Please contact the Development Review Engineer at [planning.division@hayward-ca.gov](mailto:planning.division@hayward-ca.gov) or at 510-583-4216 to inquire whether an encroachment permit is required.