



City of Malibu

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RRP No. ____-

TEMPORARY RESTAURANT RECOVERY PROGRAM APPLICATION

A restaurant owner, shopping center or restaurant property owner, or manager of any restaurant or shopping center may apply for a Temporary Restaurant Recovery Permit that would allow the following¹:

1. Temporary use of Temporary Restaurant Seating Area to allow greater physical distancing;
2. Temporary changes to other approved operating conditions or restrictions to facilitate physical distancing.

“Temporary Restaurant Seating Area” means:

1. The following areas of the property that are not currently permitted for restaurant service use but may be safely converted to seating for guests:
 - a. Indoor areas that are within the tenant space;
 - b. Outdoor areas adjacent to the Restaurant use including parking spaces but excluding areas where the use could negatively impact coastal resources or prevent coastal access; and
 - c. Common areas of shopping malls that are accessible from, and within 100 feet of, the subject Restaurant.
2. Sidewalks and other public rights-of-way that are closed to public access during the period of service. A separate encroachment permit may be required for use of the public right-of-way.

All Temporary Restaurant Recovery Areas must be designed to fully comply with all California COVID-19 Guidance. Please read the application below for additional requirements.

¹ In the event of conflicting applications, the property owner’s application, if granted, shall be the operative application and permit.

Submittal Checklist

NOTE: During evaluation and inspection, additional information may be requested.

1. _____ **TEMPORARY RESTAURANT RECOVERY APPLICATION**

This form completed and signed by the Applicant, Business Owner, and Property Owner, as applicable.

2. _____ **SEATING AREA DOCUMENTATION**

Please provide at least one of the following so that City staff may determine the number of authorized seats:

- Existing permits (CUPs, OCs, CDPs, etc)
- Available parking
- Onsite wastewater treatment system (OWTS) approval
- Documentation of the number of seats allowed in Restaurants with similar seating areas
- Other

3. _____ **SITE PLAN WITH RESTAURANT USE DIAGRAM**

- Show lot dimensions, access to the site, parking areas, and permanent structures.
 - Compliance with the Americans with Disability Act (ADA) and other agency regulations is required. Paths of travel shall be a minimum of five feet to allow for two people to walk comfortably side by side and accommodate ADA accessibility.
- Show the previously established or permitted seating area and number of seats. Please provide dimensions and list the number of seats.
- Clearly mark the proposed temporary restaurant seating area, **which may not exceed the previously legally established or permitted maximum of number of authorized seats.**
 - Include pickup/ take out queuing area, table/chair locations, other seating areas, separation between seating areas, canopy covers, location within a sidewalk area, outdoor heaters, parking spaces used, and location and type of enclosure around designated dining area. A barrier/ area delineation is not required if the temporary restaurant use area is not within a parking area or if no alcohol is served or consumed.
- Show location of all temporary structures, including staff stations, utensil and hand washing stations, temporary barriers, shade structures, trash cans and recycling bins, valet stand, etc. **No new outdoor food preparation is allowed outside.**

General Information

PROPERTY ADDRESS: _____

DEVELOPMENT TYPE: SINGLE BUILDING MULTI-TENANT (SHOPPING CENTER)
 OTHER:

UNIT #: _____ APN: _____

BUSINESS NAME: _____

BUSINESS ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____

BUSINESS PHONE #: _____ BUSINESS EMAIL: _____

APPLICANT: FIRST: _____ LAST: _____

APPLICANT ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____

APPLICANT PHONE #: _____ APPLICANT EMAIL: _____

PROPERTY OWNER: _____

COVID-19 OPERATIONAL POINT PERSON: First: _____ Last: _____

PHONE #: _____ EMAIL: _____

Business Information

HOURS OF OPERATION: _____

ALCOHOL: NONE ONSITE CONSUMPTION OFF-SITE CONSUMPTION

CUSTOMER QUEUEING AREAS*:

DOES THIS BUSINESS OFFER CURBSIDE PICKUP/ TAKEOUT? YES NO

DOES THIS BUSINESS TAKE RESERVATIONS? YES NO

DOES THIS BUSINESS DELIVER? YES NO

If "Yes" was selected for any of the questions above, please ensure that there is adequate space(s) for customer/ delivery person queueing.

Project Information

PROPOSED PROJECT DESCRIPTION (PROVIDE ADDITIONAL PAGES IF NECESSARY):

1. PROPOSED TEMPORARY RESTAURANT USE AREA:

PARKING SIDEWALK COMMON SPACE OTHER: _____

2. PROPOSED TEMPORARY RESTAURANT USE AREA:

SQUARE FOOTAGE: _____ SQ. FT.

SEATS FOR CUSTOMERS (NUMBER): INDOOR _____ OUTDOOR _____

3. TOTAL RESTAURANT USE AREA:

SQUARE FOOTAGE: _____ SQ. FT.

SEATS FOR CUSTOMERS: INDOOR _____ OUTDOOR _____

4. TEMPORARY STRUCTURES:

TEMPORARY BARRIERS (#) _____ (TYPE): _____ (HEIGHT): _____

TEMPORARY SHADE STRUCTURES (#) _____ (TYPE): _____ (HEIGHT): _____

OTHER TEMPORARY STRUCTURES: (DESCRIBE NUMBER AND SIZE): _____

TEMPORARY LIGHTING: NO

YES, DESCRIBE: _____

5. PARKING:

PARKING AFFECTED: NO YES, NO. OF SPACES IMPACTED: _____

TOTAL EXISTING SPACES _____

TEMPORARY RESTAURANT RECOVERY APPLICATION CONDITIONS OF APPROVAL

1. General

- a. Approval of this application does not eliminate the need for other permits, licenses, or certificates required. Additional permits may include, but not be limited to Alcohol Beverage Control ([COVID-19 Temporary Catering Authorization Application \(Form ABC-218 CV19\)](#)), LA County Fire Dept., LA County Dept. of Public Health (food).
- b. This permit shall be kept on site and produced to any agent or employee of the City of Malibu on request. Applicant shall not deviate from this permit without prior written approval.
- c. All operations and service conducted within the Temporary Restaurant Seating Areas will be consistent and in accordance with all CA Department of Public Health and Los Angeles County Department of Public Health codes and requirements.
- d. Compliance with Federal Americans with Disabilities Act and State Accessibility Requirements is the responsibility of the Applicant and must be maintained at all times.
- e. The approval of this Temporary Restaurant Recovery Program Application is for the use described in the application, no development is permitted as part of this approval.
- f. The Temporary Restaurant Recovery Program does not relieve the applicant from any conditions of approval included in existing entitlements other than those which are directly addressed by the Temporary Restaurant Recovery Permit.
- g. A Temporary Restaurant Recovery Program approval does not allow any changes exceeding existing permitted hours or established hours of the subject business.
- h. The Planning Director may impose any conditions required to prevent use of the Restaurant from exceeding the impacts and use of the Restaurant that existed prior to the issuance of a Temporary Restaurant Recovery Permit. Such conditions may include, but are not limited to, modifying hours of operation of the Temporary Restaurant Seating Area, measures to limit noise impacts, measures to facilitate parking/dropoff/pickup, lighting restrictions, temporary protective barriers, circulation requirements for employees/customers/vehicles, health/safety measures, and restrictions on the locations and numbers of seats and tables inside and outside the Restaurant. The property owner shall agree to indemnify and defend the City in any action related to the issuance of the Temporary Restaurant Recovery Permit and/or the use allowed by the permit as a condition of receiving the permit.
- i. In addition to all other remedies, violations of a Temporary Restaurant Recovery Program Permit or this Ordinance are subject to the Administrative fine provisions of the Malibu Municipal Code located in Chapter 1.10 et. seq

2. Construction Hours

- a. Per Malibu Municipal Code (MMC) Section 4.2.04(G), construction may take place from 7:00 a.m. to 7:00 p.m. weekdays and 8:00 a.m. to 5:00 p.m. on Saturdays. Construction is not permitted on Sundays or the following City observed holidays: New Year's Day, Martin Luther King Jr. Day,

President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

3. Noise

- a. Must comply with noise ordinance and all noise related conditions of existing approvals.
- b. All noise is subject to the City's Noise Ordinance found in MMC Chapter 8.24. The project applicant and property owner acknowledge receipt of the City's Noise Ordinance and agree to comply with the provisions at all times. Violation of the Noise Ordinance shall be cause for revocation of the permit and may result in denial of any Special Event Permits requested for the subject property in the future.
- c. If any agent of the City requests that the noise level be reduced, applicant shall ensure immediate compliance.
- d. Noise from this event shall not emanate or interfere with the peace and comfort of the residences or their guests, or the operators or customers in places of business in the vicinity.
- e. Noise shall not be plainly audible at a distance of five feet of any residential dwelling unit after 10:00 p.m.

4. Lighting

- a. Exterior lighting shall be minimized, restricted to low intensity features, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from sensitive public viewing areas. Traffic lights, navigational lights, and other similar safety lighting are exempt from this requirement.

5. Parking and Access

- a. Applicant shall assure that guest vehicles do not at any time block any public or private street or driveway.
- b. Fire Department emergency vehicle access shall be maintained at all times.
- c. A minimum of one opening shall be provided on a dining enclosure on the public sidewalk side of the space. Enclosed outdoor dining areas shall maintain an opening of 36" minimum. Access openings shall be kept clear of furnishings. Gates, while not preferred, shall not open outwards into path of travel or walk zone.
- d. Fire code compliance is required for egress purposes within the permit area. A minimum five (5) foot clear path of travel shall be provided and the number of seats provided shall not exceed 1 seat per 15 square feet within the permit area.

6. Temporary Structures and Structure Placement

- a. Shade structures shall be ground mounted and shall not be attached to the building (per Fire Code requirements).
- b. All materials and structures should be easily movable and temporary.

7. Smoking

- a. Smoking is prohibited in all outdoor dining areas located on private or public property, including the public right-of-way. Smoking is also prohibited within 20 feet of an outdoor dining area, except while actively passing by on the way to another destination. The MMC defines “smoking” as inhaling, exhaling, burning, or carrying any lighted cigarette, cigar or pipe. (Ord. No. 337, § 1, 7-13-2009)
- b. Any business with an area subject to the prohibition set forth in MMC Section 9.32.020 shall post or cause to be posted and shall maintain “no smoking” signs in conspicuous locations within said area. All such signs shall: (1) be no greater than one square foot in size; (2) be prominently displayed; (3) clearly state “no smoking” and/or use the international “no smoking” symbol; and (4) reference MMC Section 9.34.020. Any business with an area subject to the prohibition set forth in MMC Section 9.34.020 shall also provide a smoker’s waste receptacle 20 feet from the entry way or, where that distance is not possible, at the farthest possible point away from the entry way.

8. Plastic Bags

- a. Per MMC Chapter 9.28 no retail, restaurant, vendor, or nonprofit vendor shall provide plastic bags of compostable plastic bags to customers.

9. Polystyrene Food Packaging (Styrofoam)

- a. Per MMC Chapter 9.24, no restaurant, food packager, retail food vendor, vendor, or nonprofit food provider shall provide prepared food to its customers in any food packaging that utilizes expanded polystyrene.

10. Sandbags

- a. Per MMC Chapter 9.30, no affected retail establishment, governmental agency, vendor or nonprofit vendor shall provide plastic sandbags to customers. No person shall distribute or use plastic sandbags at any City facility or any event held on city property. No person, entity, business, homeowner, nonprofit, contractor, subcontractor or employee shall install for any purpose, whether temporary or permanent, plastic sandbags.

11. Termination

- a. The Temporary Restaurant Seating Area must be vacated and returned to its original state within 72 hours of the termination of this ordinance or the termination of the issued Temporary Restaurant Recovery Permit. Use of the Temporary Restaurant Seating Area must cease immediately upon termination of this ordinance or a Temporary Restaurant Recovery Permit.
- b. A Temporary Restaurant Recovery Permit may be modified or terminated by the City for any of the following reasons:
 - i. Violation of any applicable law, rule, ordinance, or order;
 - ii. Disturbance of the quiet enjoyment of nearby residents;
 - iii. Objection by law enforcement agencies;
 - iv. If operation of the Temporary Restaurant Seating Area is inconsistent with State or local public health directives, including social distancing directives or guidance; or
 - v. If, in the discretion of the Planning Director, continuance of the activity permitted by the Temporary Restaurant Recovery Permit will negatively impact the public’s health, safety, or welfare.

- c. Should a Temporary Restaurant Recovery Permit be modified or terminated per Condition 11, the permit holder shall be provided notice of the reason for modification or termination by: (1) mailing notice to the address of the Restaurant, (2) delivering notice to the Restaurant manager or staff on duty at the Restaurant, or (3) mailing or delivering the notice to the permit holder or property owner. The permit holder may request reconsideration of the modification or termination by providing written evidence or argument to the City Clerk at cityclerk@malibucity.org within 5 days of the mailing or delivery of the notice by the City, whichever is earlier in time. The permit holder must immediately comply with the modification or termination, except that if a request for consideration is timely delivered to the City the Temporary Restaurant Seating Area need not be returned to its original condition until 10 days after the date notice of the modification or termination was mailed or delivered by the City, whichever is earlier in time

12. Special Conditions

- a. _____

- b. _____

- c. _____

- d. _____

ACCEPTANCE OF CONDITIONS AFFIDAVIT

The undersigned applicant(s) and property owner(s) acknowledge and agree to abide by all terms and conditions of **Temporary Restaurant Recovery Permit Number** _____ for the business located at _____.

Date

Signature of Applicant

Print Applicant's Name

Date

Signature of Property Owner/Manager

Print Property Owner/ Manager's Name