

# CITY OF FOUNTAIN VALLEY TEMPORARY EMERGENCY USE PERMIT



**\*\*\*\*\*POST THE APPROVED PERMIT IN THE BUSINESS\*\*\*\*\***

BUSINESS NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

APPLICANT NAME: \_\_\_\_\_

CONTACT PHONE NUMBER: \_\_\_\_\_

APPLICANT EMAIL: \_\_\_\_\_

BANNER INCLUDED?      \_\_\_\_\_ YES      \_\_\_\_\_ NO

TEMPORARY OUTDOOR USE PERMIT FOR CENTER APPROVED?      \_\_\_\_\_ YES      \_\_\_\_\_ NO

PROPOSED OUTDOOR OPERATING HOURS: \_\_\_\_\_

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## INITIAL

## REQUIREMENTS

- \_\_\_1. Letter of authorization from property owner/manager on letterhead.
- \_\_\_2. If a Temporary Emergency Outdoor Use Permit Application has already been approved for the center in which you are located, initial here, attach the approved plan, and skip to #6.
- \_\_\_3. A dimensioned plan showing the location of the outdoor activity area(s) and pedestrian paths with social distancing measurements.
- \_\_\_4. A dimensioned site plan for the commercial center/property that depicts vehicular and pedestrian circulation patterns, curb-side pick-up areas (if any), outdoor activity areas by tenant, outdoor seating areas, pedestrian flow areas, parking areas, parking backup areas required by FVMC 21.22.070 Figure 3-2, equipment such as wash stations and hand sanitizing stations or stations for staff set up and service.
- \_\_\_5. Depict location of temporary banners (individual use and/or center)
- \_\_\_6. Evidence of general liability insurance in the amount of \$1,000,000 **and an endorsement** naming the city of Fountain Valley as an additional insured.
- \_\_\_7. Copy of City of Fountain Valley business license.
- \_\_\_8. Fire permit obtained. Contact Fire Department for requirements at (714) 593-4430.
- \_\_\_9. By signing and accepting the Temporary Emergency Outdoor Use Permit, the applicant attests that they have read and comply with the orders issued by the State and Orange County Health Care Agency.
- \_\_\_10. The Temporary Emergency Outdoor Use Permit is not effective unless it is signed by the applicant indicating and acknowledging his/her understanding of the conditions imposed therein.
- \_\_\_11. By signing and accepting the Temporary Emergency Outdoor Use Permit, the applicant accepts the benefits conferred by the permit subject to the conditions imposed therein. By accepting the right to operate pursuant to the Temporary Emergency Outdoor Use Permit, the applicant waives all rights to challenge any condition imposed as unfair or unreasonable.





# EMERGENCY ORDER ALLOWING TEMPORARY EMERGENCY OUTDOOR ACTIVITY ON PRIVATE PROPERTY

ISSUED JUNE 2, 2020

On June 2, 2020, the City Council of the City of Fountain Valley directed the City Manager to issue this emergency order allowing restaurants, commercial establishments, and religious institutions with access to private sidewalks and/or private parking to utilize portions of those areas for dining, retail services, and operations in accordance with the safety criteria outlined below, provided the consent of the landlord or property-owner has been obtained, and provided a Temporary Emergency Use Permit has been approved by the City.

## 1. Applicability

- *Private Sidewalks and Parking Lots.* Businesses and religious institutions (together "Uses") with access to private sidewalks and/or private parking lots may utilize portions of these areas for dining, retail services, outdoor services, and curb-side pick-up.
- *Uses Identified by State and County Order can Operate.* The Uses that will be allowed to operate outdoors shall only be those that have been cleared by the State and Orange County Health Care Agency to operate. As the State and County expand the list of Uses that are allowed to operate, the list of Uses that can operate outdoors in Fountain Valley will automatically expand.
- *Duration.* The Temporary Emergency Use Permit shall terminate when: (a) the local emergency proclaimed on March 17, 2020, (as may be extended) is no longer in effect; or (b) the State and County allow resumption of normal and full operations. As a Use is permitted to resume full and normal operations, they shall abandon outdoor operations and relocate back inside.

## 2. Permit Process

- *Temporary Emergency Use Permit application.* Please complete a Temporary Emergency Use Permit application (Attached) and return to the Planning Department. Your application will be reviewed by the Planning, Public Works, Fire, and Police Departments and responded to within 2-3 business days. Please email your completed applications to [planning.building@fountainvalley.org](mailto:planning.building@fountainvalley.org). Be aware that hard copies submitted to city hall require 24 hour quarantine, which may delay a response.
- *Commercial Centers.* If there are multiple tenants in a commercial center, it is recommended that a Temporary Emergency Use Permit for an entire center be submitted by the property manager. Individual Uses within a plan approved for the center will then have their Temporary Emergency Use Permit application expedited. Plans for the center must comply with the provisions contained herein and the property manager shall be responsible for identifying the Outdoor Use Activity area for each

tenant. Use of the parking lot will not be permitted unless a plan for the entire center has been approved by the property manager.

- *Individual Uses in Commercial Centers.* If a Temporary Emergency Use Permit for the entire commercial center in which the individual Use is located has not been approved, Uses in commercial centers may complete a Temporary Emergency Use Permit on an individual basis with approval of the property manager. In this case, the temporary Outdoor Use Activity area shall be limited to the sidewalk/plaza area directly in front of the store. The length of the Outdoor Use Activity area shall be limited to the leasehold frontage and the depth will be dependent upon the required ADA and social distancing clearances. The temporary Outdoor Use Activity for an individual Use shall comply with the all applicable provisions of this Emergency Order.
- *Application Contents.* In addition to a completed application, the Temporary Emergency Use Permit application shall include:
  - A dimensioned plan showing the location of the Outdoor Use Activity area(s) and pedestrian paths with social distancing measurements.
  - A dimensioned site plan of the center/property that depicts vehicular and pedestrian circulation patterns, curb-side pick-up areas (if any), outdoor activity areas by tenant, outdoor seating areas, pedestrian flow areas, parking areas, parking backup areas required by FVMC 21.22.070 Figure 3-2, equipment such as wash stations and hand sanitizing stations or stations for staff set up and service.

### **3. Criteria for Temporary Outdoor Use Activity on Private Property**

#### **a. Permitted Locations (General).**

- Temporary Outdoor Use Activity may occur within private parking lots, plazas, and sidewalks when the safety criteria described herein is met.
- The use of removable barriers to define Outdoor Use Activity areas, seating areas, curb-side pick-up areas, pedestrian paths, vehicular paths is permissible. There is no limitation as to the type of temporary barriers, but they must clearly serve the intended purpose, ensure public safety, and protect patrons from vehicles.

#### **b. Private Sidewalks and Plazas**

- Each tenant may use the sidewalk or plaza directly in front of their Use for temporary Outdoor Use Activity. The width of the Outdoor Use Activity area shall not exceed the width of the frontage of the subject Use. The depth of the Outdoor Use Activity area shall depend upon the other required clearances described below. However, the property manager may approve alternative locations, lengths, and sizes of Outdoor Use Activity areas for individual tenants in a Temporary Emergency Use Permit for the entire center.
- Temporary Outdoor Use Activity areas shall allow for at least 6 feet of separation between the Outdoor Use Activity area and any obstructions.

- The temporary outdoor activity area and/or pedestrian path shall be physically separated from pedestrian and vehicular paths and clearly demarked by durable and removable barriers.
- The pedestrian path shall be measured from the Outdoor Use Activity boundary to the curb face and other large obstructions (e.g. planters, utility boxes). No tables, or chairs, umbrellas or other fixtures shall be permitted within the pedestrian path.
- Access to public utilities, building entrances/exits, ADA facilities, fire hydrants, fire hose connections for sprinkler systems shall not be obstructed by barriers or seating.

#### c. Parking Lots

- As approved for a commercial center, each tenant may convert a portion of the parking lot near their Use for temporary Outdoor Use Activity. Individual tenants may not utilize private parking lots of a commercial center without a Temporary Emergency Use Permit first being approved for the entire commercial center.
- Up to 50% of on-site private parking in a center may be converted to Outdoor Use Activity.
- No parking for disabled persons may be repurposed – unless replaced and demarked elsewhere in the center.
- Landscape areas shall not be used or converted for parking, outside seating, or operational activities.
- Vehicular paths and curb-side pick-up areas must be clearly marked and signed to ensure pedestrian safety.
- The twenty (20) feet fire lane shall not be obstructed at any time; however, the fire lanes can be relocated to an alternate path with approval of the Fire Department.
- Required parking dimensions and back up's as required per FVMC 21.22.070 Figure 3-2 must be observed.

#### d. Tents and Other Shade Structures

- Tents that are 10 feet by 10 feet in size or smaller may be erected in the approved Outdoor Use Activity areas. Tents or shade structures that are larger than 10 feet by 10 feet in size must comply with CFC Title 19, Chapter 2.
- If tents are staked, the parking lot must be repaired upon removal of the tent.
- If not staked, all tent legs must be weighted by a minimum of 30 lbs. and weights must be securely attached to canopy roof and canopy leg separately. Items that make acceptable weights include: 5 gallon bucket full of water, sand, or concrete or sand bags.
- Ropes and straps should be strong (bungee or rubber straps are prohibited).
- Weights must be on the ground and not dangling.
- Weights and lines must not pose a hazard and be clearly visible.
- For maximum safety, do not leave tents unsecured at any time.
- Heaters of any kind shall not be used under tents or umbrellas.

- Tents shall not have closed walls in place while open to the public and all sides should be open for air flow.
- The Fire Department will conduct an inspection of the tents and may require some modifications. For questions, contact Michele Rudaitis at 714-593-4430.

#### e. Operational Criteria

- The hours of operation of the temporary Outdoor Use Activity area shall be restricted to the adjacent Use's operating hours. However, if within 200 feet of a residential property line, outdoor activities that cause noise may be restricted to reasonable operating hours (e.g. between 7:00 AM and after 9:00 PM) as determined by the City in consideration of any existing CUP.
- Vehicular circulation/access lanes must be kept clear at all times.
- Driveways must be kept clear at all times to prevent cars from stacking into streets. This may require that parking lot monitors be employed by the Use and/or commercial center.
- Temporary banners advertising the Use may be permitted in conjunction with Temporary Emergency Use Permit. One banner per tenant and three banners for the commercial center shall be allowed. The maximum size shall be: 45 square feet in area and 3 ft. by 15 ft. Banners shall be located on the temporary Outdoor Use Activity area for the tenant. Banners for the commercial center may be allowed within the perimeter landscaped area but not within the corner/intersection visibility areas.
- There is no limit on directional and safety signage (e.g. one way, exit only, maintain social distancing, etc...) that does not contain advertisements.
- Space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material. Propane tanks shall not be stored outdoors.
- No heating, cooking or open flames are permitted in the Outdoor Use Activity area.
- Tents, umbrellas and other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. No portion of an umbrella shall be less than six (6) feet, eight (8) inches (eighty (80) inches) above the sidewalk.
- No outdoor amplified noise shall be permitted.
- The Use and property manager shall be responsible for cleaning up trash as needed but at a minimum of two times per day.
- Keep it simple. Limit visual clutter (banners, flags, signs, etc...) so public can easily figure out how to access the pick-up areas.

#### f. Outdoor Seating

- Maintain a 6 foot separation between each table, including chairs.
- If people are at a table together, they don't need to be 6 feet apart. Each table setting needs to be 6 feet from other tables measured from the back of each chair, chair-to-chair.

#### g. Alcoholic Beverages

- Restaurants and food establishments with approved City and State licenses will be permitted to sell and allow on-premise consumption of alcoholic beverages within expanded dining areas on private property.
- Restaurants not currently permitted to sell alcohol will not be affected by this program.
- When the temporary stay-at-home orders have been lifted in Orange County by the State, provide a Copy of the completed COVID-19 Temporary Catering Authorization application that has been submitted to ABC (available here: <https://www.abc.ca.gov/fourth-notice-of-regulatory-relief/>). Once approved by ABC, provide a copy of the approved application to the Planning Department.

#### **4. Responsibilities for Outdoor Use Activity**

- It shall be the responsibility of the Use and/or property manager to post the approved Temporary Emergency Use at the business at all times.
- It shall be the responsibility of the Use and/or property manager to maintain and secure the removable barriers per the approved plans and all materials located inside the outdoor activity areas.
- Maintenance (daily upkeep, litter cleanup, etc.) associated with Use operations shall be the responsibility of the Use and/or property manager.
- The Use shall provide evidence of general liability insurance in the amount of \$1,000,000 and an endorsement naming the city of Fountain Valley as an additional insured.
- The Temporary Emergency Use Permit is not effective unless it is signed by the applicant indicating and acknowledging his/her understanding of the conditions imposed therein.
- By signing and accepting the Temporary Emergency Use Permit, the applicant accepts the benefits conferred by the permit subject to the conditions imposed therein. By accepting the right to operate pursuant to the Temporary Emergency Use Permit, the applicant waives all rights to challenge any condition imposed as unfair or unreasonable.
- The applicant understands that there are inherent safety concerns when operating outdoors, especially in a parking lot, and by signing the Temporary Emergency Use Permit the applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents and employees, from any and all liability or claims that may be brought against the City arising out of its approval of the Temporary Emergency Use Permit.

- The city is not responsible for any damages or loss of equipment installed pursuant to an approved Temporary Emergency Use Permit.

## **5. Revocation**

- The City reserves the right to revoke any Outdoor Use Activity area that: (i) creates an obstruction to, or causes congestion of, pedestrian or vehicular traffic on the surrounding public right-of-way; (ii) if it finds the installation represents a danger to the health, safety or general welfare of the public; or (iii) a Use violates the requirements of a Temporary Emergency Use Permit.
- The applicant shall comply with all federal, state, and local laws. Violations of any of those laws in connection with the use will be cause for revocation of this Temporary Emergency Use Permit.