

EMERGENCY OUTDOOR USE ACTIVITY ORDER
AMENDMENT NO. 1

On June 2, 2020, the City Council of the City of Fountain Valley directed the City Manager to issue the following emergency order allowing restaurants and commercial establishments with access to private sidewalks and/or private parking to utilize portions of those areas for dining or retail services, 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.

Now, therefore, the City Council of the City of Fountain Valley directs the City Manager to issue the following amendment number one to the order:

Include the Temporary Public Park and Open Space Use permit to the order, authorizing the Community Services Director to approve use of open park space, on a case by case basis, for operation of some specified businesses, religious institutions, cultural activities, gyms, and physical fitness facilities within the City of Fountain Valley.

Specified businesses include any business that is limited or unable to operate within their existing brick and mortar location and does not meet the criteria set forth in the Temporary Emergency Use Permit.

1. Applicability

- *Temporary Public Parking Lot, Park, and Open Spaces.* Businesses, religious institutions, cultural activities, gyms, and physical fitness facilities with appropriate guidelines for operating in an open space may utilize designated Temporary Public Parking Lot, Park, and Open Spaces.

2. Permit Process

- *Temporary Public Park and Open Space Use application.* Please complete a Temporary Public Park and Open Space Use application and return to the Recreation and Community Services Department. Your application will be reviewed by the Recreation and Community Services, Fire, and Police Departments and responded to within 2-3 business days. Please email your completed application to FVRecCenter@fountainvalley.org. Be aware that hard copies submitted to the Recreation Center require 24-hour quarantine, which may delay a response.
- *Application Contents.* In addition to a completed application, the Temporary Public Parking Lot, Park, and Open Space application shall include:
 - A dimensioned plan showing the requested Temporary Public Parking Lot, Park, and Open Space area(s) and pedestrian paths with social distancing measurements, and the applicants guidelines. The plan should also indicate use of temporary barriers that will be utilized and their intended location.

3. Criteria for Temporary Public Park and Open Space Activity

a. Permitted Locations (General)

- Temporary Public Park and Open Space Use may occur within a specified area of a City-owned, public parking lot, park, or open space, when the safety criteria described herein is met.
- The use of removable barriers to define Temporary Public Parking Lot, Park, and Open Space Use areas, seating areas, curb-side pick-up areas, and pedestrian paths, is permissible. Temporary barriers are allowable, but they must clearly serve the intended purpose, ensure public safety, and protect patrons from vehicles, and be identified and disclosed on the application.
- Temporary Public Parking Lot, Park, and Open Space Use areas shall allow for at least 6 feet of separation between the designated activity area and any obstructions.
- Access to public utilities, building entrances/exits, ADA facilities, fire hydrants, fire hose connections for sprinkler systems shall not be obstructed by Temporary Public Parking Lot, Park, and Open Space Use area.

b. Parking Lots

- No parking for persons with disabilities may be repurposed.
- Vehicular paths may not be modified and must be clearly marked and signed to ensure pedestrian safety, with the exception of specified and approved use of a public parking lot for a drive-thru style activity.
- The twenty (20) feet fire lane shall not be obstructed at any time.
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c. Tents and Other Shade Structures

- Tents that are 10 feet by 10 feet in size or smaller may be erected in the approved 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 approved to be staked, the ground must be repaired upon removal of the tent by the permittee.
- 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.

d. Operational Criteria

- The hours of operation of the temporary activity area shall be restricted to dawn to dusk, or until the last permitted lighted activity.
- 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.
- Temporary banners advertising the activity may be permitted in conjunction with Temporary Public Park and Open Space Use Permit. One banner per permittee shall be allowed in a pre-approved area that should be outlined in the application. The maximum size shall be: 45 square feet in area and 3 ft. by 15 ft.
- Appropriate directional and safety signage (e.g. one way, exit only, maintain social distancing, etc.) that does not contain advertisements may be utilized, but should be outlined in the permit application for approval.
- 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 permittee 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 feet 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.

4. Responsibilities for Temporary Public Park and Open Space Activity

- It shall be the responsibility of the permittee to have the approved Temporary Public Park and Open Space Use permit available upon request by City personnel.
- It shall be the responsibility of the permittee to maintain and secure the removable barriers per the approved plans and all materials located inside the permitted area.

- Maintenance (daily upkeep, litter cleanup, etc.) associated with Use operations shall be the responsibility of the permittee.
- 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 Public Parking Lot, Park, and Open Space 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 Public Parking Lot, Park, and Open Space 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 Public Parking Lot, Park, and Open Space 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 in an outdoor, Temporary Public Parking Lot, Park, and Open Space, and by signing the Temporary Public Parking Lot, Park, and Open Space 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 Public Parking Lot, Park, and Open Space Use Permit.
- The City is not responsible for any damages or loss of equipment installed pursuant to an approved Temporary Public Parking Lot, Park, and Open Space Use permit

5. Revocation

- The City reserves the right to revoke any Temporary Public Parking Lot, Park, and Open Space Use permit 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 Public Parking Lot, Park, and Open Space 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 Public Parking Lot, Park, and Open Space Use permit.