



Community Development Department • 300 Centennial Way • Tustin, CA 92780  
 Phone • 714.573.3140

## Temporary Use Permit Application Outdoor Dining, Retail, and Assembly Uses

Permit Fee: \$95.00

*This fee will be waived throughout of the administration of this program, which is set to conclude fourteen (14) days after the City rescinds its emergency proclamation.*

*Please submit completed applications and all required materials to the Planning Division. Applications will be accepted by mail and in person (by appointment only). Electronic submittals will be accepted via Tustin's Citizen Self Service (CSS) Portal.*

### Event Information

Address of Temporary Use \_\_\_\_\_

Assessor's Parcel Number \_\_\_\_\_

Business Name \_\_\_\_\_

Purpose of Temporary Use\* \_\_\_\_\_

Date(s) of Temporary Use \_\_\_\_\_

Date of Last Temporary Use (if any) \_\_\_\_\_

Hours of Operation \_\_\_\_\_

Description of Temporary Use *(identify dimensions for the site as well as all proposed tents, tables, barriers, and proposed improvements; hours of use; potential service of alcohol; signage; operations; cash registers, number of parking spaces or drive aisles to be impacted; percentage of parking spaces to be impacted; and other requests as part of the application).* \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Site Plan: Please attach a site plan of the event

### Property Owner Information

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

E-mail \_\_\_\_\_

### Applicant Information (if different)

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

E-mail \_\_\_\_\_

### Contact Information (if different)

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

E-mail \_\_\_\_\_

#### Office Use Only

TUP # \_\_\_\_\_

Outdoor Dining \_\_\_\_\_

Outdoor Retail \_\_\_\_\_

Outdoor Assembly \_\_\_\_\_

Other \_\_\_\_\_

Date \_\_\_\_\_

Evaluated by \_\_\_\_\_

Fees Paid \_\_\_\_\_

Receipt # \_\_\_\_\_

License Agreement \_\_\_\_\_

Insurance Provided \_\_\_\_\_

ABC Approval \_\_\_\_\_

OCHCA Approval \_\_\_\_\_

**Standard Conditions of Approval • The following are standard Temporary Use Permits conditions • A checkmark denotes conditions applicable to this permit • Additional conditions of approval are required when indicated below**

- All merchandise, supplies, equipment, apparatus, and/or displays associated with the temporary use shall be removed by midnight on the expiration date of the permit.
- All debris, litter, waste, spills, and/or other residue associated with the temporary use shall be removed daily by midnight on the expiration date of the permit. The subject premises shall be restored to the condition which existed prior to the set-up of the temporary use.
- All signs or banners shall comply with the City of Tustin Sign Code and shall not be placed within the public right-of-way, unless approved by the City.
- All tents shall be installed per manufacturer’s specifications. Tents in excess of 200 square feet shall be flame retardant or made flame retardant in an approved manner. Tents in excess of 400 square feet require approval by and an inspection from the Orange County Fire Authority. All tents shall be positioned to provide a fire lane of a minimum 20 feet in width between rows of parking.
- Any on-site food service shall be approved by the Orange County Environmental Health at 714-433-6000.
- No alcoholic beverages shall be served, unless permits are obtained through the City of Tustin and the State Department of Alcohol and Beverages Control.
- The applicant shall not alter the condition of or construct any improvements or structures within the public right-of-way without the approvals of the City’s Public Works Department.
- The applicant shall be responsible for any damage to public facilities within the public right-of-way. Any damage resulting from the permitted activity to curb, gutter, sidewalk, roadway, etc. in the public right-of-way shall be repaired to the satisfaction of the City Engineer.
- The activities shall not operate in such a manner that would impact any traffic lanes, cause back up (queuing) of vehicles into the public right-of-way, or create any unsafe conditions.
- Fire and Police access and passage shall be permitted at all times. All activities including parking and event equipment shall not block parking areas, access, or passage for disabled persons or emergency response vehicles.
- All businesses that will be operating within the City of Tustin as a result of this temporary use permit, including event setup and clearing, shall be required to obtain a valid City of Tustin Business License.
- The event may be required to cease operating at any time, at the discretion of the Tustin Police Department Watch Commander or Community Development Director or designee, in response to complaints received during the event from the surrounding community regarding disturbances of the peace, or for violations of the conditions of approval contained herein or the Tustin City Code.
- All activities related to the event shall comply with the Tustin Noise Ordinance. No amplified speaking, music, or singing is permitted unless otherwise noted in the Additional Conditions attached.
- Any violation of any of the conditions imposed is subject to the issuance of an Administrative Citation pursuant to Tustin City Code Section 1162(a).
- The applicant shall hold harmless and defend the City of Tustin from all claims and liabilities arising out of a challenge of the City's approval of this permit.

**Signatures and Acknowledgements**

I hereby certify that all the information contained in this permit, including all required plans and other submission materials is, to the best of my knowledge and belief, true and correctly represented. Should any or all of the information submitted be false or incorrect, I hereby agree to defend, indemnify, and hold the City of Tustin harmless from liability and; loss by reason of its reliance on any such information. I further acknowledge that the approval of this permit is discretionary, and the use applied for is not allowed by right. I understand that any approval may be revoked if any of the conditions of approval are not satisfied. Should the event continue beyond the expiration date, the applicant and property owner are subject to formal abatement proceedings and possible loss of any bonds posted with the City. By signing this form, the applicant and property owner acknowledge and agree to all the conditions imposed by this permit.

\_\_\_\_\_  
Property Owner’s Signature

\_\_\_\_\_  
Applicant’s Signature (if different)

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print name

**Office Use Only**

Agency Approvals:     Police             Fire             Public Works     Planning             Building

Approved            Planning Approval: \_\_\_\_\_ Public Works Approval \_\_\_\_\_

Denied                Notes \_\_\_\_\_

Additional conditions of approval required (see attached)

Issued on: \_\_\_\_\_ Permit will expire fourteen (14) days after the City rescinds its emergency proclamation.



## **GUIDELINES FOR TEMPORARY OUTDOOR DINING, RETAIL AND ASSEMBLY USES**

Please submit completed applications and all required materials to the Planning Division at City Hall located at 300 Centennial Way, Tustin, California 92780. Applications will be accepted by mail and in person (by appointment only). Electronic submittals will be accepted via Tustin’s Citizen Self Service (CSS) Portal. Please direct any questions you may have to the Planning Division at 714-573-3140.

### **Purpose & Applicability**

The purpose of these guidelines is to provide criteria to facilitate outdoor dining, retail, and assembly uses on private property and/or within the public right-of-way while protecting the public interest during the COVID-19 pandemic. These guidelines, which may be amended at any time, apply to outdoor dining, retail, and assembly uses associated with an existing business and organizations. New outdoor dining, retail, and assembly areas may be located adjacent to, or in the vicinity of, a permitted restaurant, café, retail business, or gathering area. Such locations include, but may not be limited to:

- Sidewalks
- Alleyways (when not used for emergency or vehicle traffic)
- Parking lots
- Plazas and other common open space

### **Designated Area of Use**

The area of use identified through this process may, or may not, include fencing or other approved means that effectively restrict or discourage the general public from using the space. In general, the approved area will be defined by the perimeter of the outdoor dining/retail sales area, including any path(s) of travel by the public through the designated outdoor area. The perimeter, as identified in the submitted site plan, should be clearly delineated using barriers such as: decorative fencing, temporary walls, planter boxes, or K-Rail barriers. On public property and in the public right-of-way, the Public Works Department will use discretion in determining an approved area to account for practical considerations such as trees and other obstructions.

### **Submittal Requirements**

The application package for establishment of temporary outdoor dining, retail, and assembly areas related to COVID-19 shall be comprised of the following items:

- Temporary Use Permit (TUP) Application for Outdoor Dining, Retail, and Assembly Uses
- Permit Fee: \$95.00
  - This fee will be waived throughout of the administration of this program, which is set to conclude fourteen (14) days after the City rescinds its emergency proclamation.
- Description of the Request:
  - Please be sure to describe the extent of the project, including: dimensions for the site as well as all proposed tents, tables, barriers, and proposed improvements; hours of use; potential service of alcohol; signage; operations; cash registers, number of parking spaces or drive aisles to be impacted; percentage of parking spaces to be impacted; and other requests as part of the application. Description may be provided directly on the TUP application form or provided as an attachment.

- Site Plan
  - Provide an 8½” x 11” exhibit showing the boundaries of the proposed outdoor dining/outdoor retail sales area. Please be sure to show the proposed location of furnishings within the designated area to demonstrate compliance with COVID-19 pandemic social distancing guidelines and maintenance of proper pathway clearances (i.e. minimum of 6 feet between seating areas as measured from occupied seating, pathways that allow for a minimum of 6 ft separation between uses, etc.)
  - Provide details pertaining to temporary fencing, enclosures, or other structural improvements, used for the outdoor area, as applicable.
  - Site plans shall illustrate (L’ x W’) of area requested; show all existing improvements (street lights, trees, fire hydrants, or other infrastructure) that may limit clearance for pedestrian access; and dimensions between the requested outdoor area and any existing improvements within the immediate area. This plan shall also demonstrate compliance with disabled access requirements.
- Letter of Acknowledgement
  - For a request involving the right-of-way that encroaches into an adjacent business defined by extended property lines, an applicant must submit a letter of acknowledgement from the effected property owner supporting the application (i.e. designated outdoor area is proposed to extend in front of an adjacent retail space).
- Revocable License Agreement
  - A Revocable License Agreement may be required for any encroachment into the right-of-way and/or sidewalk at the request of Tustin Public Works. If required, Agreement must be signed by the Property Owner/Applicant prior to permit issuance.
- Insurance Certificate
  - When application includes an encroachment into the right-of-way and/or sidewalk, the business owner agrees to maintain minimum insurance requirements continuously for the duration of the Revocable License Agreement and to submit certificates of insurance, as necessary.
  - Minimum coverage of \$1,000,000 GL coverage.
  - Identify the City of Tustin as additional insured. City of Tustin, 300 Centennial Way, Tustin, CA 92780.

**Application Review Process**

Application package will be reviewed as follows:

- A complete application package should be submitted to the Planning Division by mail or in person (by appointment only). Electronic submittals will be accepted via Tustin’s Citizen Self Service (CSS) Portal. Please review the list of submittal requirements to ensure all items are provided within your submittal package.
- Application will be reviewed administratively by staff.
- If the application involves an encroachment into the public right-of-way, a Revocable License Agreement may be required prior to permit issuance.
- If the application involves a license to sell alcoholic beverages, a copy of your ABC approval and/or waiver may be required prior to permit issuance.
- Upon approval, Conditions of Approval will be identified for your project which must be agreed to be the Property Owner/Applicant prior to permit issuance.
- Any violation of any of the conditions imposed is subject to the issuance of an Administrative Citation pursuant to Tustin City Code Section 1162(a).

## **Permit Expiration**

Businesses may continue to operate in conjunction with their approved permit, provided that all health and safety requirements are being met. Permit will expire fourteen (14) days after the City rescinds its emergency proclamation.

## **Operational Requirements**

Operational requirements stated below apply to uses operated on public/private property and those within the public right-of-way.

- General Requirements
  - Outdoor dining areas shall be limited to serving and consumption of food and non-alcoholic beverages, unless authorized otherwise by Alcohol Beverage Control (ABC).
  - Sale of alcoholic beverages shall be limited to the hours when food is available and operation of an outdoor dining area shall be permitted only at such times as the main restaurant use is open.
  - Outdoor areas shall include adequate illumination at tables for outdoor restaurant seating and for all walkways within designated outdoor areas.
  - Retail sales displays are also permitted with appropriate spacing and shall be limited to small displays located adjacent to the business.
- Design Criteria — The following items must be considered when determining consistency with guidelines:

- Compatibility

- Floor Plan

The Property Owner/Applicant shall be responsible for compliance with physical distancing requirements and to provide for proper distancing as it relates to contiguous uses. If the interior dining and/or retail area exits through the outdoor dining and/or outdoor retail sales area, an equivalent exit “corridor” width shall be maintained at all times.

- Enclosures and Furniture

Fencing/enclosure must be of an easily removable design. All fences and/or enclosures should be constructed of a durable and fire safe material, structurally sound, aesthetically pleasing and compatible with adjoining improvements or structures. If the designated area requested is in an area where vehicular traffic occurs, barriers shall be substantive enough to protect customers and employees from impact.

Fences and furnishing must be maintained in good condition and placed/secured in such a way so as to not impede public safety.

- Entry Door Clearance

The encroaching furnishings shall not impede entry to the building and must not preclude applicable emergency exit requirements (i.e., a minimum exit width of 44” must be maintained at all times for “single” entry doors; however, large door openings require larger exit widths.)

- Public Walkway Clearance and Accessibility

A clear pathway on the public sidewalk, alley, or parking lot, free of all obstructions, shall be maintained at all times to avoid hazardous conditions for pedestrians. The City may approve minor variations, including less restrictive clearance requirements for a single point restriction such as a street light or tree; however, under no circumstances shall a path of travel be less than four (4) feet wide.

Outdoor dining, retail, and assembly areas shall be fully accessible for persons with physical disabilities and provide safe passing conditions. Throughout the term of this temporary program, it shall be the Property Owner/Applicant's responsibility to self-certify compliance of the authorized area of use with all Federal, State, and Local laws, including but not limited to Americans with Disability Act.

- Sightlines

Furnishings shall not restrict motor vehicle sight lines.

### **Temporary Business Identification Signs**

If temporary signage is proposed in conjunction with your TUP application, please submit a conceptual signage plan that shows the proposed location and dimensions for all temporary signage.

### **Alcoholic Beverage Control (ABC)**

It is the responsibility of the Applicant/Business Operator to comply with all ABC requirements. If the TUP application involves a license to sell alcoholic beverages, a copy of your approval and/or waiver from ABC may be required prior to permit issuance.

Any licensee with on-sale retail privileges may qualify for a COVID-19 Temporary Catering Authorization through the local ABC office. If approved, this authorization would allow for the temporary expansion of the licensed area for a qualified business to accommodate patrons while abiding by social distancing guidelines and directives. Please refer to ABC-218 CV19 Instructions for additional information at: <https://www.abc.ca.gov/abc-218-cv19-instructions/>.

### **Orange County Health Care Agency (HCA)**

It is the responsibility of the Property Owner/Applicant to comply with all health orders and guidance for restaurants and/or retail provided by the Governor's Office and the County of Orange.

- Dine-In Restaurants: <https://covid19.ca.gov/pdf/guidance-dine-in-restaurants.pdf>
- Shopping Centers: <https://covid19.ca.gov/pdf/guidance-shopping-centers.pdf>

County of Orange guidance documentation for food facilities regarding COVID-19 may be found at:

- <https://www.ocfoodinfo.com/>

### **Orange County Fire Authority (OCFA)**

Property Owner/Applicant is responsible for complying with all Orange County Fire Authority (OCFA) conditions of approval related to temporary outdoor dining and/or outdoor retail sales. If it is determined that OCFA's Special Event Permit is required in conjunction with your application, staff will advise you on necessary steps to complete your Special Event Permit with OCFA. Separate OCFA permit issuance fees may apply.

## **SAMPLE CONDITIONS OF APPROVAL**

- The applicant shall comply with all COVID-19 State of California and County of Orange Health Regulations as it relates to business operations.
- All business activities within the designated outdoor area shall be limited to businesses listed on the TUP application.
- All business activity shall take place within the store or designated outdoor dining/ outdoor retail area and must have a valid business license to operate in the City.
- The applicant shall maintain adequate security personnel to ensure the security of merchandise on display, if necessary.
- All business activities within the designated outdoor area shall substantially comply with the attached site plan on file with the Community Development Department.
- Sale of alcoholic beverages shall be limited to the hours when food is available and operation of an outdoor dining area shall be permitted only at such times as the main restaurant use is open.
- All equipment within the designated outdoor area, as approved on the site plan, shall be installed per the manufacturer's specifications.
- Any litter on-site or within the public right-of-way attributable to this use shall be removed daily.
- All activities related to this use shall comply with the Tustin Noise Ordinance.
- The applicant shall keep clear all required exits and ADA accessible paths of travel at all times. Exits shall terminate to an approved Public Way.
- Standard and ADA accessible parking spaces shall be available to all customers. If existing permanent ADA accessible parking spaces are obstructed, an equal number shall be temporarily located as close to the building as possible. An accessible path of travel from the accessible parking space to the building or area of the business activities is required. Provide accessible dining table for disabled patrons.
- If electrical will be provided, temporary electric power and lighting installations shall comply with Article 590 CEC 2019. The applicant shall submit plans to the Building Official for review and approval as necessary.
- All customers shall have access to restroom facilities in the existing buildings or provide access to temporary restrooms within 250 feet from the event area. ADA accessibility to the restrooms shall be maintained.
- Alcoholic beverage sales and distribution are subject to ABC licensing requirements. Issuance of the ABC license may be subject to conditions related to the sales, service, and consumption of alcoholic beverages.
- Any on-site food service shall be approved by the Orange County Health Care Agency guidelines.
- Fire department access, roadways and gates shall remain unobstructed at all times in order to allow emergency vehicles access for firefighting purposes.
- A method of controlling parked cars shall be maintained to keep a 20-foot clearance from the exterior patios.
- All fire lanes shall be kept clear of any tables, chairs, displays, etc.

- Temporary tents and canopies shall be anchored to resist windy conditions in accordance with the manufacturer's installation instructions.
- Tent materials shall be approved and labeled by the State Fire Marshal as flame resistant.
- When a generator is proposed, generators shall be separated from tents and canopies by a minimum of 20 feet and isolated from the public by fencing or other means.
- When a generator is proposed, secondary containment for portable generators shall be provided and comply with the attached conditions of CASWA BMPs for Spill Prevention and Control (WM-4). Prior to securing a generator, please check with the Building Division to determine whether a permit is required.
- When operating within a parking lot, temporary patio areas shall not be located within 20 feet of parked vehicles or internal combustion engines. Area must provide adequate separation to nearby buildings and adjacent properties.
- Temporary railings shall be adequately braced and anchored to withstand the elements of weather and/or collapse.
- A currently tagged fire extinguisher (2A 10BC minimum) shall be present within 75 feet of travel distance.
- All fire protection equipment shall be maintained in an operative condition.
- Clearance around fire protection equipment shall be maintained (i.e. fire hydrants, fire department connections, and outside stem and yolk valve (OS & Y)).
- Any use of the right-of-way and/or sidewalk requires appropriate insurance and approval by the Public Works Director.
- Revocable License Agreement requirement has been waived for use of the right-of-way and/or sidewalk, unless otherwise required by Tustin Public Works.
- If the use requires extra planned or unplanned City services such as police, code enforcement, or public works services, the applicant shall reimburse the City for any costs associated with the planned or unplanned City services.
- If the use is not operated in accordance with the approved application and applicable guidelines, is found to be a nuisance, or negative impacts are affecting the surrounding tenants or neighborhood, the Community Development Director may impose additional conditions to eliminate the nuisance or negative impacts, or may revoke approval of the temporary use permit. The City may terminate TUP approval for areas established within the right-of-way at any time if deemed necessary.