



APPLICATION FOR TEMPORARY USE PERMIT FOR OUTDOOR SERVICES

Dear Applicant:

This letter is to inform you of the temporary policies and procedures that the City has regarding temporary outdoor services. In March 2020, in response to the outbreak of COVID-19, and under regulations from the State of California and the County of Orange, restaurants in Brea were no longer allowed dine-in service and certain businesses were no longer allowed to provide indoor services. Now, as outlined in the guidelines for Stage 2 of the State Governor's 4-Stage Reopening Plan, businesses have the opportunity to provide outdoor services for their customers, while adhering to state and local public health regulations. Businesses may now temporarily convert portions of adjacent parking areas, walkways, patios, common areas, sidewalks and public rights-of-way to provide services.

Attached you will find a copy of the Temporary Use Permit for Outdoor Services Application and all the information needed to process it in the quickest manner possible. Please read all directions and requirements carefully and use the checklist provided before submitting your application. Please submit a completed application and all required materials to the Planning Division at planning@cityofbrea.net, in person (by appointment only) or by mail. A completed application should be submitted prior to the expansion of any outdoor services.

If you have any questions, please feel free to call (714) 990-7674. Once approved, a Temporary Use Permit for Outdoor Dining is in effect for and expires 14 days after the order is lifted in accordance with all applicable State and local health orders.

COMMUNITY DEVELOPMENT DEPARTMENT



TEMPORARY USE PERMIT FOR OUTDOOR SERVICES SUBMITTAL CHECKLIST

Your application must include the following to obtain a Temporary Use Permit for Outdoor Services:

- 1. APPLICATION** – A completed Temporary Use Permit for Outdoor Services Application.
- 2. SITE PLAN AND SERVICE AREA** – See Temporary Outdoor Service Site Plan Submittal Requirement Checklist on Page 3 of this application package. See example site plan attached to this package.
- 3. INDEMNIFICATION AGREEMENT** – See agreement on page 5 of this application package.
- 4. PROPERTY OWNER APPROVAL** – See letter on page 6 of this application package.
- 5. TEMPORARY USE PERMIT AND ASSOCIATED FEES** – See CARES Act Relief Application on page 7 of this application package.
- 6. PUBLIC RIGHT-OF-WAY** - If outdoor seating is proposed on City-owned right-of-way, please contact the Public Works Department at (714) 990-7667 for submittal requirements of the following items:
 - Encroachment Permit
 - Liability Insurance and Worker’s Compensation
 - Certificate of Insurance and Endorsement
- 7. FIRE REQUIREMENTS** – Applicant shall comply with the TUP application for COVID related expansions and any Special Event Guidelines. Obtain approval by the Brea Fire Department prior to any installation of tents, use of open flame device/candles, propane or outdoor cooking. Please contact the Brea Fire Department at (714) 990-7655 for more information.



**APPLICATION FOR TEMPORARY USE PERMIT FOR
OUTDOOR SERVICES**

CD/ DS No.

CONTACT INFORMATION				
Applicant Name:		Applicant Phone Number:		
Applicant Email:				
Business Name:		Business License No:		
Business Address:				
Property Owner Name:		Property Owner Phone Number:		
Property Owner Address:				
Property Owner Email:				
EMERGENCY CONTACTS				
Emergency Contact No. 1 Name:		Emergency Contact No. 2 Name:		
Phone Number:		Phone Number:		
APPROVAL SIGNATURES & DATE				
Applicant Signature:		Date:		
Property Owner Affidavit attached:				
BUSINESS OPERATION				
Hours of Operation: From:		To:	Current Seating Occupancy:	
<i>*Outdoor service area must close with business's hours</i>				
Area(s) Used	Parking Area	Walkway	Right-of-Way	Other
PLANNING DIVISION USE ONLY DEPARTMENT APPROVAL				
PLANNING:		BUILDING:		
ENGINEERING:		POLICE DEPARTMENT:		
FIRE DEPARTMENT:		HUMAN RESOURCES:		
Issued on:				

TEMPORARY OUTDOOR SERVICE SITE PLAN SUBMITTAL REQUIREMENTS

Your site plan/layout must be a minimum of 8.5" x 11" and demonstrate the following:

	A service area layout that includes basic dimensions
	The proposed sizes, locations, number, and arrangement of all barriers , tables, chairs, umbrellas, generator and other furnishings
	Maximum 50% on-site parking spaces may be converted*
	Location of property lines, parking spaces and curb line
	The locations and dimensions of all existing and proposed obstructions within and adjacent to proposed improvements. Existing trees, lamp posts, planters and all other improvements within the public right-of-way may not be removed or relocated
	A minimum distance of six feet (6'-0") between tables when in use
	A minimum 4'-0" ADA accessible pedestrian path of travel from the storefront and the parking areas
	Outdoor service area may not encroach into drive aisles and shall be setback 2 ft. from the adjacent curb face of parking striping
	Circulation of employees, patrons, vehicles and trash loading and unloading
	The locations and descriptions of temporary signage and all other signage in compliance with applicable public health requirements
	Visual clearance of a 10'-0" right triangle from the curb line, when the service area is adjacent to driveways or on a corner lot
	If portable heaters are proposed, all applicable fire requirements must be met
	Location of fire protection equipment (i.e. fire hydrants, fire department connections, post indicating valves, OS&Y)
	If umbrellas or canopy covers are provided, they must maintain a minimum 7'-0" clearance from ground level, not to exceed 10'-0"

TEMPORARY SIGNANGE

	The approval of the Temporary Outdoor Services Permit depends on compliance with the Event Related Temporary Sign Policy. A Permit may be obtained only for those types of signs permitted by the City of Brea Zoning Ordinance. If no signs will be displayed, please check the box to the left. If you will be using signs, please fill in the information requested below.
Number of Signs	
Size of Signs	
Text on Signs	

*Subject to City approval

OUTDOOR SERVICES IN PUBLIC RIGHT-OF-WAY

If the proposal includes outdoor services in the public right-of-way please contact the Engineering Division at (714) 990-7667 for more information. Please check the box on the left to indicate Applicant is in agreement with the following:

	Approval of an Encroachment Permit through the Engineering Division.
	Proof of Liability Insurance and Worker’s Compensation .
	Certificate of Insurance and Endorsement. Check the box to the left indicating that you understand the permit will not be issued until you have submitted and the City has approved all the proper insurance needed for this event. This includes proof of a City approved general liability policy covering the event with a \$2,000,000 combined single limit per occurrence minimum general aggregate. The general liability policy will be primary and non-contributory, the City of Brea must be named as an additional insured by endorsement and a waiver of subrogation is required. (If auto insurance is required, an additional insured endorsement and waiver of subrogation is also required. See attached insurance matrix for additional details on requirements, minimum policy limits, and acceptable ratings for insurance companies.

TEMPORARY OUTDOOR SERVICES ADMINISTRATIVE REQUIREMENTS

Check the box on the left to indicate Applicant is in agreement with the following:

	The plans and permit for a temporary outdoor service area shall be kept on the premises of the business at all times.
	The permit is only valid during the State’s stay-at-home order. Once the order is lifted, the temporary outdoor service area must be removed within 14 days.
	It is the responsibility of the Property Owner/Applicant to comply with all CAL/ OSH and health orders and guidance for businesses provided by the Governor’s Office and the County of Orange.
	Outdoor service areas shall be limited to serving and consumption of food and non-alcoholic beverages, unless authorized otherwise by Alcohol Beverage Control (ABC). Please refer to ABC-218 CV19 Instructions for additional information at: https://www.abc.ca.gov/abc-218-cv19-instructions/ . It is the responsibility of the Applicant/Business Operator to comply with all ABC requirements.
	The City shall have the rights to suspend or prohibit the operation of a temporary outdoor service area at any time if necessary to safeguard the public health, safety and welfare.
	Each permit shall be personal to the permittee and is not transferrable, delegable, or assignable.
	Once a temporary outdoor service area is removed, the applicant is responsible for returning the existing paving to its original state

INDEMNIFICATION AGREEMENT

Please read, fill in, and sign at the bottom

In consideration of being granted a Temporary Use Permit for Outdoor Services, and to the full extent permitted by law, the undersigned, _____, on behalf of _____ hereby agrees to defend, indemnify, and hold free and harmless the City of Brea, its elected officials, officers, employees, and agents, with respect to any and all liabilities, claims, suits, actions, losses, expenses or costs of any kind, whether actual, alleged or threatened, including the payment of actual attorney's fees, court costs and any and all other costs of defense, incurred as a consequence of, arising out of, or in any way attributable to, the granting of a Temporary Use Permit for Outdoor Service to (name and date of event)

The undersigned hereby represents that he or she has read and fully understands that by signing this Agreement, important legal rights are being waived and legal obligations are being assumed. If signing as a representative, the undersigned further represents that he or she is fully authorized to enter into this Agreement on behalf of each and every person, group, business and/or organization to which the Temporary Use Permit is being issued.

Applicant's Signature

Date

PROPERTY OWNER APPROVAL

Must be read, filled in, and signed by the owner of the property or management company.

_____ (owner/prop. management) hereby grants full permission and approval for _____ (applicant) for the expansion of an outdoor service area at _____ (location) on _____ (date). Additionally, I have been notified of the full extent of the proposed outdoor service area and agree to not hold the City of Brea responsible for any problems or concerns that may arise due to it.

Signature of owner or person authorized _____ Date _____

Telephone number _____ Fax Number _____ Address _____

Property Management, if applicable _____ Date _____

Telephone number _____ Fax Number _____ Address _____

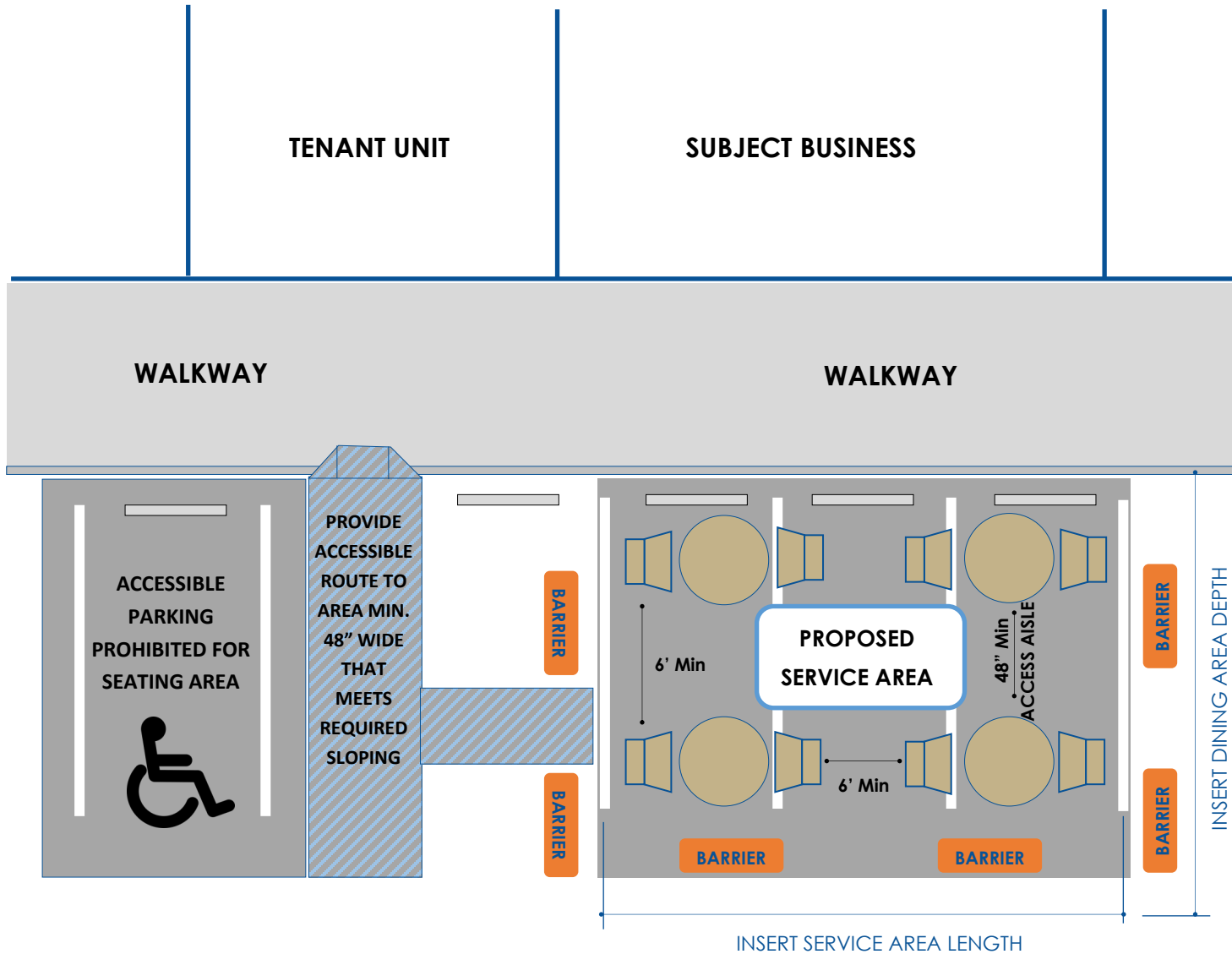


City of Brea
Small Business Assistance Program

CARES ACT RELIEF APPLICATION
Temporary Use Permit/Encroachment Permit Fees
for Outdoor Services Application

BUSINESS/OWNER INFORMATION			
Name of Business			
Address of Business			
Phone Number		Email Address	
Owner Name		Co-Owner Name	
BUSINESS INCOME INFORMATION			
In the month of April – June 2020 as compared to April – June 2019, have you had a revenue loss due to COVID-19?		Please provide an estimated % of revenue loss during this period.	
<input type="checkbox"/> Yes <input type="checkbox"/> No			
Please provide a brief explanation of the adverse economic effects COVID-19 has had on your business:			
ACKNOWLEDGEMENT AND CERTIFICATION			
<p>Acknowledgement: I/We understand that this application is to request business assistance from the City of Brea through CARES ACT funds awarded to the City. This assistance is for fees for the Temporary Use Permit/Encroachment Permit needed for an Outdoor Services Application and is based solely upon the information that I/We have provided in this application.</p> <p>Certification: I/We certify that the information provided in this application is true and complete to the best of my/our knowledge as of the date set forth opposite my/our signatures(s) in this application and acknowledge my/our understanding that any intentional or negligent misrepresentation(s) of the information contained in this application may result in civil liability and/or criminal penalties.</p> <p>By signing below, I/we certify that the above statements are true and correct to the best of my/our knowledge. I/We understand that a false statement may disqualify me/us from benefits.</p>			
Owner Signature	Date	Co-Owner Signature	Date

(EXAMPLE) PROPOSED OUTDOOR SERVICES SITE PLAN



TENANT INFORMATION
BUSINESS NAME
ADDRESS
UNIT (IF APPLICABLE)
TENANT AREA (SQ FT)

OUTDOOR SERVICES INFORMATION
AREA OF OUTDOOR SERVICE (SQ FT)
SURFACE MATERIALS
COVERED (YES/NO)
NO. OF TABLES/SEATS
BARRIER TYPE
HOURS OF OPERATION



COMMAND STAFF

ADAM LOESER, Fire Chief

September 21, 2020

Dear Business Owner,

As the COVID-19 pandemic restrictions continue into the fall and winter months, the City of Brea and the Brea Fire Department remain committed to working with the business community while also adapting to seasonal weather changes. Colder temperatures and increased wind activity will become more prevalent, as will the inherent need for protection from these elements. Tents, "EZ-Ups", canopies and other similar temporary overhead structures pose potential safety hazards, as does any type of open flame or other portable heating device. It is for that reason that the Fire Department and its Prevention Bureau require permits for the commercial use of such. However, in light of the City's unconventional COVID-19 temporary use permit (TUP) modifications, the Fire Department will not require you to apply for a separate permit related to either.

Remaining consistent with my previous letter, dated June 23, 2020, the self-inspection process will continue as a means of ensuring your business and its patrons are safe. You will be required to continue reviewing and inspecting your operations to verify California Fire Code (CFC) basic requirements are being met. Please reference the new checklist (included with this letter) for new requirements related to portable heating devices and temporary shelters as defined by the following CFC:

- **Section 3103.9** – Tents or membrane structures and their appurtenances shall be designed and installed to withstand the elements of weather and prevent collapsing
- **Section 3104.1(a)** – All tent fabrics and all interior decorative fabrics or materials shall be flame resistant in accordance set forth in the California Code of Regulations, Title 19, Division 1, Chp. 8
- **Section 603.4.2.1 and 2** – Portable outdoor gas-fired heating appliances are prohibited inside of any occupancy, tent, canopies, and/or membrane type structures, shall be located not less than 5 feet from buildings or combustible decorations, overhangs, awnings, sunshades or other combustible attachments to structures
- **Section 603.4.2.2** – Portable outdoor gas-fired heating appliances shall be used and maintained in accordance with the manufacturer's instructions, equipped with a tip-over switch which automatically shuts off the flow of gas after exceeding 15 degrees from vertical and the heating element or combustion chamber guarded so as to prevent accidental contact by persons or material
- **Section 603.4.2** – Fuel containers for portable outdoor gas-fired heating appliances shall be approved DOT or ASME containers with maximum capacity of 20 lbs and secured at all times out of view of the public as to prevent manipulation or accidental occurrence

- **Section 604.10** – Portable electrical space heaters must be plugged directly into an approved receptacle and not an extension cord and not operated within 3 feet of any combustible material

Brea Fire Department Life Safety Inspectors will continue to perform random periodic inspections at all locations taking advantage of the outdoor business modifications. Do to the exorbitant public safety risk when utilizing temporary heating and shelter components, please understand that your issuance of this TUP may be revoked should they identify any negligence in these areas. If you have any further questions or concerns, please contact our administrative offices at 714-990-7655.

Sincerely,

A handwritten signature in black ink, appearing to read 'CNigg', with a long horizontal flourish extending to the right.

Christopher Nigg, M.S.
Deputy Fire Chief – Administration & Fire Marshal
Fullerton and Brea Fire Departments



BREA FIRE DEPARTMENT SELF-INSPECTION CHECKLIST

The purpose of this document is to aid the business owner or operator in conducting a self-inspection of their business in an effort to correct any general violations that may exist or develop during the Coronavirus modification of outdoor dining and outdoor retail.

Please contact the Brea Fire Prevention Bureau at (714) 990-7652 for additional items such as canopies, heaters, drapery, etc. for approval from the Fire Marshal.

Egress

- Is the seating arranged to facilitate quick exit in the event of an emergency?
- Are exits clear of obstructions, combustible materials, or crowding?
- Is there protective barriers in place to allow for protection between moving vehicles and seating/shopping area, which do not completely impede emergency response access?
- Maintain aisles and cross-aisles throughout area tables, shelves, racks etc.

Electrical

- Are all electrical outlets, switches and cover plates safe from apparent shock or other electrical hazards?
- Is the area maintained clear at least 36" in front of electrical panel?
- Are extension cord(s) of heavy-duty construction, grounded, and maintained in good condition?
- Are extension cords(s) put away at the end of the day?

Fire Protection Equipment

- Are the Fire Lanes clear from all obstructions?
- Are the fire lanes marked No Parking?
- Have all fire extinguishers been serviced and tagged within the last 12 months?
- Is there a maintained minimum 3' clearance around fire hydrants

Portable Heating Devices

- Are the portable outdoor gas-fired heating appliances located at least 5 feet from buildings, tents, combustible decorations, awnings, overhangs, sunshades or other combustible attachments to structures?
- Are the portable outdoor gas-fired heating appliances used and maintained per manufacturer's instructions and equipped with a tip-over switch?
- Are the fuel containers for portable outdoor gas-fired heating appliances less than 20 lbs in size, secured and kept out of public view?

Business Name

Business Owner's Printed Name

Business Owner's Signature

Date

1 Civic Center Circle, Brea CA 92821
(714) 990-7655