

Special Temporary Use Permit – Business Recovery Strategy Conditions of Permit Approval

[Urgency Ordinance No. 2020-12](#) was adopted by the City of Escondido City Council on May 20, 2020 as a means of mitigating and preventing further public safety and health effects of the COVID-19 pandemic. If you obtain a TUP, your business or restaurant will be subject to the following conditions. All approval letters that are issued will refer to the following terms and limitations.

1. Permit Holder agrees to immediately remove any Improvements or encroachment into the commercial parking area, sidewalk, or public right-of-way, at Permit Holder's expense, upon demand of City. City retains the right to revoke this permit for any reason and at any time.
2. Permit Holder is to conduct business operations in accordance with all applicable laws or regulations, including all applicable Public Health Orders issued by the County, State, or other governmental body or agency. For example, as of this writing, physical distancing guidelines must be in place at all times.
3. Permit Holder must still comply with Americans with Disabilities Act ("ADA") regulations and not place tables in designated ADA spaces. Drive Aisles and Fire Lanes must be observed and cannot have seated dining service in them. If sidewalks are used, the business must provide alternative pedestrian access.
4. Approval of this Permit for a specific time period does not waive the Permit Holder from obtaining other city, state, or federal permits or licenses, which may also be required as determined by the appropriate regulatory agency. All food sales shall be conducted in compliance with health department regulations. If alcohol is served in the restaurant, the restaurant is responsible for obtaining proper license(s) to serve in the outdoor area.
5. Permit Holder agrees by the acceptance of the Permit to exercise reasonable care to maintain properly any hardscaped and landscaped areas and exercise reasonable care in inspecting for and immediately repairing and making good any damage or injury to any portion of the hardscaped areas or landscaped areas that occurs as a result of the work done under, or any use done pursuant to, the Permit. All hardscaped areas including any adjacent landscaped areas, sidewalk, and parking areas, shall be kept free of trash and debris at all times. The business or employer shall ensure the cleanup and removal of any trash and debris at the conclusion of operation each day. All outdoor areas shall be operated in compliance with [storm water special event controls](#).
6. City of Escondido and its respective elected and appointed boards, officials, officers, agents, employees, and volunteers (collectively, "Indemnitees") shall have no liability to Permit Holder or any other person, and Permit Holder shall indemnify, defend, protect, and hold harmless, to the fullest extent of the law, Indemnitees

from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, losses, damages, judgments, liens, levies, fines, penalties, costs, and expenses of whatever nature that Indemnitees may suffer or incur or to which Indemnitees may become subject that may arise out of or relate to any injury to or death of any person, damage to property, loss of use of property, economic loss, or Permit Holder's (including employees, customers, and invitees) use, operation, maintenance, repair, improvements, or other modifications on Permit Holder's property or in the public right of way as authorized by this Permit (collectively, "Claims"), including reasonable attorney's fees, costs, and expenses incurred by Indemnitees in responding to or defending any Claims. City shall not by its approval of this Permit, or any part of it, or by granting any other authorizations concerning this Permit or other Improvements, be deemed an insurer or surety for the design or construction of the Improvements. If any Claims are brought against Indemnitees by reason of any of the matters against which Permit Holder has agreed to indemnify Indemnitees as provided above, Permit Holder, upon notice from City, shall defend Indemnitees at Permit Holder's expense, by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to indemnification in order to be so indemnified. The foregoing provisions shall survive the expiration or termination of this Permit.

7. The Permittee shall provide proof of insurance and shall maintain in full force and effect while operating under the Permit a comprehensive liability insurance policy that names the City as an additional insured with respect to the Permit and shall be in a form satisfactory to the City Attorney. Failure to maintain the required amount of insurance or to submit proof of insurance upon request shall be grounds for immediate revocation of the Permit.
8. The Permittee may desire to have canopies in into a commercial parking area, sidewalk, or public right-of-way to provide shade. In order to ensure the safety of their customers and to comply with Fire Code requirements, if one business will be using 700 square feet (seven or more 10' x 10' canopies) or more of canopies that are connected, then an inspection may be required. Clusters of canopies less than 700 square feet do not require an inspection, as long as the clusters have 12-foot separation from each other.
 - Canopies can only have one side wall/panel.
 - The canopy cover and sidewall should be made of fire resistant material.
 - A fire extinguisher must be within 75' of the dining area covered by a canopy. For most restaurants with outdoor dining close to the front door, the existing fire extinguisher (2A 10B:C) will likely suffice. If the dining area is more than 75' away from an existing fire extinguisher (path of travel), then an extinguisher must be mounted on the canopy frame.

- Within or under canopies in a dining area, the following is **NOT** allowed:
 - Portable outdoor heaters or open flames
 - Smoking
 - Candles (Note that battery powered “candles” or table lights are fine)
- Canopies, tables, chairs, etc. should not be placed within 15 feet of either side of a fire hydrant or fire department sprinkler system connection (FDC).

For TUPs that require Fire Department notification, a Fire Department inspector will contact the customer to provide guidance and assistance, including a courtesy site visit if necessary.

9. Any other conditions or requirements listed by Urgency Ordinance No. 2020-12.