

Town of Falmouth, Maine
Temporary Outdoor Services Application Form
Effective June 3, 2020

Submit completed application to Community Development Dept.: 699-5303, lsangillo@falmouthme.org
For assistance with application, contact Theo Holtwijk, 699-5340, tholtwijk@falmouthme.org

Applications shall include a completed, signed application form and accompanying submission materials (see submission checklist below and ordinance requirements). **No Application Fee is Required.**

Business Name: _____

Project Type: ___ Temporary Outdoor Eating Area Permit ___ Temporary Outdoor Retail Display Permit

Project Location (physical address): _____

Property tax map and lot number: _____

Applicant: _____ Phone: _____ E-mail: _____

Mailing Address: _____

Property owner: _____

The application shall address all requirements of the emergency ordinance, including items listed on the checklist below (as applicable, all items must be checked and materials attached):

- Copy of business license and/or permit by the appropriate state and local agencies.
- Written consent of the property owner.
- Narrative describing:
 - the nature of the use, including responses or illustrations demonstrating how the proposal meets the emergency ordinance requirements;
 - what measures, if any, will be taken in order to minimize the impact of the outdoor services on surrounding properties and nearby business establishments and to ensure that the outdoor services will not disturb public health, safety, or welfare. (Also show measures on layout plan, survey, or aerial image described below);
 - how outdoor services will comply with safety and social distancing guidelines per Section 3.e of the emergency ordinance; and
 - hours of operation outdoor services will be conducted (Refer to Section 3.g of emergency ordinance for limitations on hours of operation)
- Layout plan, survey, or aerial image of the area to be used for outdoor services showing safe pedestrian, vehicular, and emergency access, the dimensions and capacity of the proposed outdoor services area, property lines, fixed objects such as signs, trees, benches, lighting, trash receptacles, proposed location of any tables, chairs, barriers or demarcations to delineate outdoor services, landscaping, and any other site components proposed for the outdoor services activity.
- Details of barriers, temporary awnings, tents or other temporary structures, if applicable. (Please consult with Code Office staff at 699-5310 to determine whether additional permits may be required for temporary structures.)

Application Authorization

I hereby make application to the Town of Falmouth for the above-referenced property and the development as described. By signature below I acknowledge I have read, and familiarized myself with, the terms of the emergency ordinance and I acknowledge that this approval is only temporary in nature and may be suspended or revoked in accordance with the terms of the emergency ordinance.

Signed: _____ **Date:** _____

Printed name: _____

This section to be completed by staff only

Permit Conditions:

Signed: _____ **Date:** _____

Printed name: _____ **Title:** _____

OUTDOOR SERVICES EMERGENCY ORDINANCE #128-2020 EXCERPTS
Effective June 3, 2020

1. The provisions of the Code related to the operation of outdoor eating areas and outdoor retail display (together referred to as “outdoor services”) shall be temporarily suspended in order to allow these uses to temporarily occur in outdoor areas on private property subject to the requirements of this ordinance.
2. Notwithstanding the procedural requirements for Conditional Uses under Div. II-19-1-8 of the Code and the procedural requirements for Site Plan Review under Div. II-19-1-9 of the Code, outdoor services may be temporarily permitted by the Community Development Director or designee (collectively, the “Director”) in coordination with, to the extent the Director deems necessary, the Code Enforcement Officer, Land Use Planner, and Fire/EMS Department, and in accordance with the requirements of this ordinance including, without limitation, as follows:
 - a. Outdoor eating areas may be temporarily established or expanded on private property by obtaining a Temporary Outdoor Eating Area Permit in accordance with the requirements of this ordinance. Notwithstanding CH.II-19-1-2 of the Code, outdoor eating areas may be permitted in association with any food service establishment, including retail and service establishments and neighborhood variety/convenience stores as those land uses are defined in the Code.
 - b. Outdoor retail display areas may be temporarily established or expanded on private property by obtaining a Temporary Outdoor Retail Display permit in accordance with the requirements of this ordinance.
3. Notwithstanding the definitions and performance standards for outdoor eating areas and outdoor retail display in CH.II-19 of the Code, the Director may issue Temporary Outdoor Eating Area Permits and Temporary Outdoor Retail Display Permits in the event that the applications for such permits demonstrate conformity with the requirements of this ordinance and adhere to the following requirements:
 - a. Only existing businesses, properly licensed and/or permitted by the appropriate state and local agencies shall be entitled to apply for a Temporary Outdoor Eating Area Permit or a Temporary Outdoor Retail Display Permit;
 - b. Applications shall include the written consent of the property owner;
 - c. Applications shall include a narrative describing the nature of the use, including responses or illustrations demonstrating how the proposal meets the requirements stated herein. Applications shall include a layout plan, survey, or aerial of the area to be used for outdoor services showing the dimensions and capacity of the proposed outdoor services area, property lines, fixed objects such as signs, trees, benches, light poles, trash receptacles, and the proposed location of any tables, chairs, barriers, landscaping, and any other site components proposed for the outdoor services activity;
 - d. Applications shall show what measures, if any, will be taken in order to minimize the impact of the outdoor services on surrounding properties and nearby business establishments and to ensure that the outdoor services will not disturb public health, safety, or welfare;
 - e. Applications shall address how outdoor services shall be operated in conformance with all applicable safety and social distancing guidelines or requirements as established by both the Maine and Federal Centers for Disease Control and Prevention (the “CDC Guidelines”) and by all applicable provisions of the Governor’s Executive Orders then in effect;

- f. Outdoor services shall provide for safe pedestrian and vehicular access, safe fire and emergency access, and shall not interfere with Americans with Disabilities Act (“ADA”) accessible parking spaces;
 - g. Outdoor services may only be operated between the hours of 7am and 9pm Sunday to Thursday and between the hours of 7am and 10pm Friday and Saturday;
 - h. Appropriate lighting of outdoor services is required if operating outside of daytime hours;
 - i. Barriers or demarcations to delineate outdoor services may be required for safety purposes;
 - j. Temporary awnings, tents or other temporary structures may be temporarily permitted to protect outdoor services from the elements. Details of any such improvements shall be provided with the application. (Additional permits may be required depending on the nature of the proposed improvements);
 - k. Additional application materials may be required by staff if, in staff’s judgment, the additional materials are necessary to ensure compliance with this ordinance.
4. Effective Date; Term. This ordinance is enacted as an emergency ordinance, pursuant to Section 213.1 of the Town Charter and shall become effective on June 3, 2020. Unless otherwise re-enacted, with or without changes, this ordinance, and any temporary permits issued hereunder, shall expire on July 22, 2020 or at such time this ordinance may be repealed, whichever occurs first.
5. Enforcement/Penalties. Violation of or failure to comply with this ordinance is subject to the enforcement mechanisms, fines, and penalties established in 30-A M.R.S. § 4452, including daily fines in the amount of \$100 to \$5,000 per violation. In addition, in the event that the holder of a Temporary Outdoor Retail Display Permit or a Temporary Outdoor Eating Area Permit violates any provision of the social distancing or other safety protocols established in the CDC Guidelines and/or the applicable provisions of the Governor’s Executive Orders then in effect, the permit holder will be subject to the enforcement provisions thereof, which specify that a violation of said orders may be charged as a Class E crime subject to a penalty of up to six months in jail and a \$1,000 fine.
6. Additional Enforcement: Suspension or Revocation of Permit or License. Additional measures for enforcement of this ordinance may include the immediate suspension or revocation of the temporary outdoor services permits issued under this ordinance, and/or the suspension or revocation of the permit holder’s business license pursuant to Section Art. II-8-4, section 8-156 of the Code for, without limitation, the following reasons:
- a. In the event the outdoor service has resulted in unforeseen hazards for public health, welfare, and safety, or unforeseen disturbance to surrounding properties or nearby business establishments;
 - b. In the event that proper social distancing or other safety guidelines or requirements, as established in the CDC Guidelines and/or applicable provisions of the Governor’s Executive Orders then in effect, are not being maintained;
 - c. In the event that the permit holder or licensee is found in default of any of the terms of this ordinance or the terms or conditions of a temporary permit issued hereunder.