



NON-CONFORMING PRIVATE USE OF PUBLIC RIGHT-OF-WAY VARIANCE APPLICATION

THIS APPLICATION IS USED FOR NON-CONFORMING ACCESS OR ENCROACHMENT INTO THE PUBLIC RIGHT OF WAY, FOR EXAMPLE: PARKING, SIGNAGE, FENCING, LANDSCAPING, AWNINGS, ARTWORK, MONITORING WELLS, LIGHTS, TABLES & CHAIRS, PLANTER BOXES.

APPLICATION DATE _____ VARIANCE NUMBER _____

APPLICANT INFORMATION (please print or type)

Applicant Name _____ Phone _____

Applicant Address _____

Address of ROW Use _____

24 HR Contact Name _____ Phone _____

Applicant Email Address _____

STATEMENT OF QUALIFYING NEED & PROPOSED USE, (use additional sheets if required)

DESCRIPTION OF STRUCTURAL CHANGES (attach map/sketch of area to be considered)

FEES

The review fee associated with this application is \$100. If approved, the use variance fee shall be calculated, assessed and remitted at the fair market value of said use, except where mitigating circumstances are identified by the city which provide a public benefit.

THIS OCCUPANCY VARIANCE DOES NOT GRANT THE AUTHORITY TO EXCAVATE ANY PORTION OF THE PUBLIC RIGHT OF WAY. APPLICANT MUST OBTAIN A NON-UTILITY CONSTRUCTION PERMIT FOR THAT WORK.

SIGNATURE REQUIRED

By my signature, I attest that the information and all supporting plans and documents are true and accurate to the best of my knowledge

Print Name Date

Signature Title (if applicable)



VARIANCE CONDITIONS

If approved, the following items shall be considered a condition of the variance, failure to comply with any of the conditions set forth herein may result in the immediate revocation, issuance of a stop work order, and/or other remedies or penalties as determined by State Law and/or City Ordinance, or other Rules or Regulations.

APPLICANT: Acknowledge each item by placing your initials in the box to the left :

By granting a public right-of-way use variance, the City of Lancaster does not waive any rights or powers of ownership, management, maintenance, and/or control over the public right of way. The use of said right of way is revocable by order of the City Engineer and/or his designee and shall be in accordance with all laws, rules and regulations. The issuance of a public right-of-way use variance is not intended to, nor shall it, grant or assign any real or personal property right or title in or to the right of way in the City of Lancaster to the Applicant.

By requesting and accepting a public right-of-way use variance, the applicant acknowledges and agrees that it will be a guest in the public right of way and is subject to and shall comply with all federal, state and local laws, rules and regulations. Applicant further acknowledges and agrees that it will comply with any and all current and future ordinances and regulations of the City during the pendency of any permit issued and any subsequent or continuing occupancy and/or use of the right of way. Applicant understands that use of the right-of-way may be immediately terminated upon notice of the City Engineer and or his designee at anytime. In the event of such notice from the City Engineer and or his designee, any and all private use of the public right of way shall be terminated, and within 30 days all property or obstructions temporary or permanent must be removed from the right-of-way, and the right of way must be returned to the original or better condition at no cost or expense to the City.

By granting a public right of way use variance the applicant will agree to hold the City of Lancaster, its employees and agents harmless for any damages resulting from the issuance of said variance.

If granted this document, all attachments herein shall become part of said variance shall be binding upon all heirs, successors and assigns.

By granting a public right-of-way use variance, the applicant agrees that they will be responsible for the maintenance and repair of any approved improvements granted as a result. Failure of the applicant to maintain said improvements to the satisfaction of the City Engineer and or his designee may result in the immediate revocation of the public right-of-way use variance, requiring all property or obstructions temporary or permanent to be removed from the right-of-way, and the right of way returned to the original or better condition at no cost or expense to the City.

This occupancy variance does not grant the authority to excavate any portion of the Right of Way. The applicant must obtain a Right of Way Construction Permit for that work.

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If approved, the following items shall be considered a condition of the variance, failure to comply with any of the conditions set forth herein may result in the immediate revocation, issuance of a stop work order, and/or other remedies or penalties as determined by State Law and/or City Ordinance, or other Rules or Regulations.

APPLICANT: Acknowledge each item by placing your initials in the box to the left :

When the Applicant's interest in the private property adjoining the right of way is being sold, transferred, or otherwise disposed of, it shall be the responsibility of the Applicant to notify the City Engineer in writing within 30 days of the effective date of said transfer.

When the Applicant's interest in the private property adjoining the right of way is being sold, transferred, or otherwise disposed of, it shall be the responsibility of the Applicant to disclose the existence of the *"Non Conforming Use of Public Right of Way Variance"* along with the current annual costs associated with it to the new property owner, prior to the effective date of the property transfer.

When the Applicant's interest in the private property adjoining the right of way is being sold, transferred, or otherwise disposed of, if prior to the property transfer the new property owner declines to accept the improvements covered under the *"Non Conforming Use of Public Right of Way Variance"*, it shall be the responsibility of the Applicant to remove all property or obstructions, temporary, or permanent from the right-of-way, and return the area to the original or better condition, at no cost or expense to the City prior to the property transfer.

Failure of the Applicant to notify the Engineers Office or disclose the existence of the *"Non Conforming Use of Public Right of Way Variance"* to the new property owner prior to the transfer of ownership, will cause the immediate termination of the agreement, and nullify the variance. The Applicant then within 30 days must remove all property or obstructions temporary or permanent from the right-of-way, and the area returned to the original or better condition at no cost or expense to the City or face the penalties provided for under Chapter 901.99.

When the Applicant's interest in the private property adjoining the right of way is sold, transferred, or otherwise disposed of, it shall be the responsibility of the Applicant to notify the new owner the requirement to submit a new application for a *"Non Conforming Use of Public Right of Way Variance"* to the City Engineer. The variance granted under this application will expire 30 days from the effective date of the associated private property transfer. Unless otherwise directed by the City, if a new application is not made within the 30 day window by the new property owner, the Applicant will be responsible for removing all property or obstructions temporary, or permanent from the right-of-way, and to return the area to original or better condition, at no cost or expense to the City.

Failure of the Applicant to comply with any element of the variance will be considered a violation of Chapter 901 and penalized pursuant to Lancaster Codified Ordinance 901.99. A violation of this Chapter is a misdemeanor of the first degree, punishable by any period of incarceration permitted by law and a fine of up to \$1,000.00. Each day in which this Chapter is violated shall constitute a separate offense