

# FIGAT7TH

DOWNTOWN LA

RULES FOR  
FREE SPEECH ACTIVITY  
IN COMMON AREAS  
01.01.2014

FIGat7th  
735 SOUTH FIGUEROA ST  
LOS ANGELES, CA 90017

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# 1.0 GENERALLY

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## THE CENTER

FIGat7th is a privately-owned shopping center containing three levels of retail shops, restaurants, fitness facilities, common areas, and other amenities. FIGat7th is not dedicated to public uses.

FIGat7th does not include either (i) the adjacent office buildings and surrounding areas, or (ii) the plaza located above the center.

As used in these Rules, the term “FIGat7th” includes its owners and managers as the context requires.

## FREE SPEECH ACTIVITY

“Free Speech Activity” is two or more persons acting in concert (a “Group”) engaging in oral or written communications that disseminate information to others, or an individual that distributes written materials, holds signs, or solicits signatures.

## THESE RULES

FIGat7th has established these Rules to govern the time, place, and manner that Free Speech Activity may take place in the FIGat7th common areas. These Rules do not apply to FIGat7th’s merchants. By establishing and enforcing these Rules, FIGat7th is not dedicating any part of FIGat7th to public use or waiving any of its private property rights. These Rules may be changed by FIGat7th from time to time.

## APPLICANTS

Each Group or individual that wants to engage in Free Speech Activity in the FIGat7th common areas is referred to in these Rules as the “Applicant.”

All Applicants must comply with these Rules.

## CODE OF CONDUCT

FIGat7th has established a Code of Conduct to govern the conduct of all persons visiting FIGat7th. A copy of the Code of Conduct is attached to these Rules. In addition to complying with these Rules, Applicants must comply with the Code of Conduct. The Code of Conduct may be changed by FIGat7th from time to time

## COMPLIANCE WITH LAWS

All persons visiting FIGat7th, including Applicants, must comply with federal, state, and local laws, regulations and ordinances.

# 2.0 APPLYING FOR ACCESS

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## THE APPLICATION

### HOW AND WHERE TO SUBMIT

Each Applicant must submit a completed written application to FIGat7th using the form attached to these Rules (the “Application”) to the following address during the normal office hours indicated.

FIGat7th  
725 South Figueroa Street, Suite 1850  
Los Angeles, California 90017  
Attn: Free Speech Activity

Monday – Friday (except legal holidays)  
Hours: 9:00 AM – 5:00 PM

Phone: (213) 955-7170  
Applications may be submitted to FIGat7th by U.S. mail, overnight carrier, or hand delivery. FIGat7th does not accept Applications submitted by fax or e-mail.

### WHEN TO SUBMIT

Each Application must be received by FIGat7th no later than the 2nd business day before the first date that an Applicant proposes to conduct Free Speech Activity at FIGat7th. An Applicant may not submit an Application more than 15 business days before the first date that the Applicant proposes to conduct Free Speech Activity at FIGat7th. Applications not received within this timeframe are untimely and will be denied.

### REQUIRED ATTACHMENTS

Applications must include legible copies of all visual materials that an Applicant intends to use, display, or disseminate, including any visual materials on apparel related to the Free Speech Activity.

### SIGNATURES AND LEGIBILITY

All signatures on each Application must be original, and all printed names and contact information must be legible. Signatures may not be stamped, photocopied, or inserted as graphics.

### SECURITY DEPOSIT AND INDEMNITY

To protect FIGat7th from any damage or loss that may be caused by the Applicant’s conduct, the Applicant must include with the Application one of the following:

- A security deposit of \$50.00 in the form of a cashier’s check or money order payable to EYP REALTY, LLC
- A signed indemnity agreement on the standard FIGat7th form attached to these Rules

### INSURANCE

FIGat7th may determine that the Free Speech Activity risks injury or damage to persons or property, and that special insurance protection is required. If so, Applicant must provide FIGat7th with proof of liability insurance coverage naming FIGat7th as an additional insured.

# 2.0 APPLYING FOR ACCESS

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## DESIGNATED AREAS

“Designated Areas” are locations in the common areas of FIGat7th that have been designated for Free Speech Activity. The Designated Areas are shown on the site plan of FIGat7th attached to these Rules. The Designated Areas may change from time to time.

### FIRST-COME FIRST-SELECTED

Designated Areas are assigned to Applicants on a first-come, first-selected basis, based upon availability on the proposed date.

### MULTIPLE AREAS

In order to provide the most opportunities for Free Speech Activity, FIGat7th may deny use of more than one Designated Area at a time by the same Applicant.

### SPONSORED ACTIVITIES

Some or all Designated Areas may be unavailable from time to time due to repair, maintenance, construction, or FIGat7th sponsored activities.

### PEAK TRAFFIC DAYS

On certain days (“Peak Traffic Days”) no Free Speech Activity will be allowed at FIGat7th, or Free Speech Activity will be limited to certain Designated Areas. A list of Peak Traffic Days is attached to these Rules, and may change from time to time.

## ALTERNATE AREAS

### ADDITIONAL TIME REQUIREMENTS

If an Applicant wants to engage in Free Speech Activity in an area that is not a Designated Area (an “Alternate Area”), then Application must specify the Alternative Area that Applicant proposes to use, and be submitted to FIGat7th at least 10 business days before the date proposed for the Free Speech Activity. This is to allow FIGat7th sufficient time to determine whether the Alternate Area will be approved by the Fire Marshall for Free Speech Activity.

### GOVERNMENT APPROVAL

The unavailability of the Fire Department or other governing authorities to certify whether an Alternate Area can accommodate Free Speech Activity is a basis for denial of an Application.

### LIMITED APPROVAL

If an Alternate Area is approved for Free Speech Activity, then the area will be considered a Designated Area for that Application only.

# 2.0 APPLYING FOR ACCESS

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## DURATION

### LIMITATIONS ON DAYS

An Applicant may in a single Application apply to conduct Free Speech Activity on up to 3 consecutive days.

### LIMITATIONS ON HOURS

Free Speech Activity will be permitted during normal operating hours only, regardless of whether particular merchants are open for business for extended operating hours. Normal FIGat7th operating hours are:

Monday – Friday, 10:00 AM to 9:00 PM

Saturday, 10:00 AM to 9:00 PM

Sunday, 10:00 AM to 7:00 PM

Normal operating hours are subject to change.

## MULTIPLE APPLICATIONS

### ONE ACTIVE APPLICATION PERMITTED

An Application is “active” from the date it is received until it is denied or, if approved, the last day of Free Speech Activity approved under that Application. Only one Application may be active at a time.

### LIMITATION ON TOTAL DAYS

No Applicant will be approved for access to FIGat7th for more than 9 days in any 30 day period.

## REVIEW OF APPLICATIONS

### FIRST-COME FIRST-SERVED

FIGat7th will review all timely submitted Applications for compliance with these Rules on a first-come first-served basis.

### NOTICE OF APPROVAL OR DENIAL

FIGat7th will notify the Applicant whether the Application has been approved or denied when reasonably possible, but no later than 3:00 PM on the business day preceding the first date proposed for Free Speech Activity.

### METHODS OF CONTACT

FIGat7th will contact the Applicant by the method designated on the Application, but will not be responsible for the failure of any fax, voicemail, or e-mail to reach the Applicant. FIGat7th is not required to make multiple attempts or use multiple methods to contact the Applicant.

### IF YOU DON'T HEAR FROM US

If the Applicant does not receive FIGat7th's approval or denial of the Application by 3:00 PM on the first business day before the first date proposed for the Free Speech Activity, then it is Applicant's responsibility to contact the FIGat7th management office as specified in Section 2.0, above, to confirm whether its Application has been approved or denied.

# 3.0 ACCESSING THE DESIGNATED AREA

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## WHEN YOU ARRIVE

On each day that Free Speech Activity is scheduled to take place, FIGat7th will assign a “Free Speech Coordinator” to be the Applicant’s primary contact. FIGat7th may change the Free Speech Coordinator throughout the day. The Free Speech Coordinator will have other duties at FIGat7th to which they must attend. Any uniformed FIGat7th security personnel can locate the Free Speech Coordinator for you.

On the day assigned for Free Speech Activity, the Applicant must first check-in with the Free Speech Coordinator before access will be provided to the assigned Designated Area.

Do not proceed directly to the Designated Area. Circumstances may have arisen that require a change in the Designated Area originally assigned.

## IDENTIFICATION REQUIRED

To assure that persons conducting Free Speech Activity at FIGat7th are Applicants that have received FIGat7th’s approval to conduct Free Speech Activity, access to a Designated Area will not be provided until each participant presents to FIGat7th a government issued photo identification identifying the person as an Applicant under the Application.

## FURNITURE

If requested on the Application, FIGat7th will supply for Applicant’s use in the Designated Area:

- One table (30” x 72”)
- Up to three folding chairs
- One easel

Applicant may not remove from the Designated Area any items provided by FIGat7th, or use any item for any purpose other than that for which it is intended. No other furniture may be brought into or used in the Designated Area (see SIGNS, below).

## WHEN YOU LEAVE

Each Applicant must check-out of the Designated Area with the Free Speech Coordinator.

The Designated Area must be returned to FIGat7th by the end of normal operating hours in a clean and neat condition, with all furniture provided by FIGat7th in place.

Except for a small quantity of written materials printed on normal letter or legal sized paper that Applicant may dispose of in FIGat7th trash receptacles, Applicant must remove and take with them all signs, posters, placards, displays, packaging, written materials, and other property brought to the Designated Area.

# 4.0 CONDITIONS OF USE

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## LOCATION RESTRICTED

The Applicant may conduct Free Speech Activity within the assigned Designated Area only.

### PRESENCE REQUIRED

If FIGat7th has provided furniture for the Designated Area or Applicant has brought any signs, posters, placards, displays, written materials, or other property for use in the Designated Area, then at least one Applicant must be present in the Designated Area at all times.

If Applicant is an individual or only one person is staffing the Designated Area for Applicant, then the individual may request permission from the Free Speech Coordinator to leave the Designated Area unattended for up to 30 minutes.

FIGat7th is not responsible for any damage to, or loss of, Applicant's property that is left unattended.

## LIGHTS AND VISUAL DISTRACTIONS

Applicant may not use or operate any lights, LED signs or other electrical devices.

FIGat7th will not provide electrical power to the Designated Area, and the Applicant may not use any available electrical outlets in or around the Designated Area.

## NOISE

In conducting Free Speech Activity, Applicant may not create any noise that is louder than the ambient noise level in or around the Designated Area. Applicant may not impinge on the hearing or peace of FIGat7th's patrons more than ten feet outside of the Designated Area. Yelling and "hawking" are prohibited.

Applicants may not use any of the following:

- A musical instrument
- A device or equipment that reproduces or amplifies sound, including a megaphone
- A public address or sound system
- A whistle, bell, or other noise maker

## SIGNS AND WRITTEN MATERIALS

### BANNERS

Applicants may not suspend any banner or long strip of material between two points or two people. Applicant may not attach anything to FIGat7th's property.



# 4.0 CONDITIONS OF USE

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## SIGNS AND WRITTEN MATERIALS (CONT.)

### MATERIALS

Applicant must identify itself on all materials that Applicant intends to distribute. No sign, poster, placard, display, or other material used or distributed in connection with the Free Speech Activity may contain or depict any of the following:

- “Fighting Words”
- Obscenities
- Pornography
- Grisly or gruesome displays
- Highly inflammatory slogans likely to provoke a disturbance
- Racial, religious or ethnic slurs

### SAFETY

FIGat7th may prohibit use of any sign, poster, placard, display or visual aid that threatens the health or safety of FIGat7th’s patrons or merchants, or causes damage or injury to FIGat7th or its merchants, including, but not limited to, the following:

- Rigid signs or displays
- Signs with sharp edges
- Signs mounted or affixed to poles, sticks, baseball bats or any similar item
- Displays, visual aids, or devices with moving parts

### DISPLAY OF SIGNS; EASELS

Signs must be either held by a single person, or placed on an easel. If an easel is used, then:

- The easel must be either provided by FIGat7th or approved for use by FIGat7th
- The base or legs of the easel must be entirely within the Designated Area and anchored by weights or ballast that will not damage the floor surface
- Signs on an easel must be firmly affixed to the easel

### NON-AFFILIATION

Applicants may not make any express or implied representation that FIGat7th, or any of its owners, managers, merchants, or sponsors, supports a view, belief, or request contained in any petition, statement, sign, poster, placard, display, visual aid, or writing being disseminated or exhibited.

### FIGat7th’s SIGNS

FIGat7th may post one or more signs in or near the Designated Area or elsewhere at FIGat7th declaring FIGat7th’s non-affiliation with the Applicant, and its views, beliefs, and requests.

# 4.0 CONDITIONS OF USE

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## ACTIVITIES PROHIBITED

No Applicant may cause or permit any of the following activities to be conducted in connection with the Free Speech Activity:

- Live performances
- Demonstrations
- Solicitation for the immediate donation of funds and/or acceptance of money or other economic consideration
- Sales of products or services
- Distribution of product samples
- Distribution of commercial advertising or commercial promotional materials
- Solicitation of orders, selling, or promoting any items (including books, pamphlets, periodicals, tickets or other materials) or services for which money is received or credit is extended
- Surveys which request more information than the person's name, address and telephone number
- Invitations, passes or coupons giving the recipient anything that is otherwise available to be purchased at FIGat7th

## OBSTRUCTIONS PROHIBITED

Neither Applicant nor any signs or other materials used in connection with the Free Speech Activity may impede, obstruct, or interfere with any of the following:

- The free flow of pedestrians
- Entrances to or exits from FIGat7th
- Use of FIGat7th's elevators and escalators

# 5.0 RULE VIOLATIONS AND CLAIMS

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## RULE VIOLATIONS

If these Rules are violated, then depending on the severity of the violation, FIGat7th may do any or all of the following:

- Remove all furniture provided from the Designated Area, dismantle all displays of Applicant, and dispose of any personal property of Applicant left in the Designated Area
- Terminate Applicant's use of the Designated Area
- Remove Applicant from the Designated Area and FIGat7th
- Deny Applicant access to FIGat7th on any successive day that Free Speech Activity has been scheduled
- Deny Applicant access to FIGat7th for Free Speech Activity for a specified period of time
- Deny all future Applications from Applicant
- Make a claim against the Applicant and participants for damages for any injury, damage, or loss to persons or property resulting from the violation of these Rules

## CLAIMS

### RETURN OF SECURITY DEPOSIT

If the Designated Area is delivered to FIGat7th in the condition required under these Rules, and no injury or damage to persons or property resulted from a violation of these Rules, then FIGat7th will within fourteen days after the last day of Free Speech Activity either:

- Return to Applicant the cashier's check or money order, endorsed over to Applicant, or
- Refund the security deposit to Applicant by business check made payable to Applicant and mailed to the address specified in the Application

### INJURY, DAMAGE, OR LOSS

If the Applicant's violation of these Rules causes FIGat7th to incur clean-up expenses, or FIGat7th suffers any injury, damage, or loss to persons or property, then FIGat7th may retain the security deposit necessary to reimburse FIGat7th for its out-of-pocket costs resulting from the violation and any balance will be refunded to Applicant as provided above.

Applicant's obligations are not limited by the security deposit. If FIGat7th's out-of-pocket costs resulting from the violation exceed the security deposit, then Applicant must pay the additional costs within ten business days after receipt of FIGat7th's invoice for these additional costs.

# 6.0 REFERENCES

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These Rules conform to the mandates of the California Constitution and relevant case law. Neither the First Amendment nor any case gives you the right to engage in free speech activities at FIGat7th without complying with these Rules. Violations of these Rules may result in a civil action and/or criminal prosecution.

## NOTABLE CASES AND HOLDINGS

In 1972, the U.S. Supreme Court held that shopping center owners were not required to allow individuals onto their property for purposes other than shopping. *Lloyd Corp. v. Tanner* (1972) 407 U.S. 551. In 1979, the California Supreme Court held that the California Constitution requires shopping centers to grant access to members of the public for purposes other than shopping, but owners may regulate free speech activity through reasonable time, place and manner rules. *Pruneyard Shopping Center v. Robins* (1979) 23 Cal.3d 899, *aff'd*, *Pruneyard Shopping Center v. Robins* (1980) 447 U.S. 74.

Later cases considered the regulations that shopping center owners may legally enforce.

- Owners may require that all persons wishing to engage in expressive activity apply to and obtain permission from the owner prior to commencing their activity. *Union of Needletrades, Industrial & Textile Employees, AFL-CIO vs. Superior Court (Taubman Company)* (1997) 56 Cal. App. 4th 996 (“UNITE”); *Cf.*, *Snatchko v. Westfield LLC*, 187 Cal. App. 4th 469, 492-93 (2010) (holding that owners may not prohibit conversations between strangers that do not create a disturbance, involve soliciting or demonstrating, involve any signs, request any signatures, attract a crowd, block ingress/egress, or otherwise compromise any fire or other safety precautions).
- Owners may restrict the time and location of the activity. *Savage v. Trammell Crow Company, Inc.* (1990) 223 Cal. App. 3d 1562; *International Society for Krishna Consciousness of California, Inc. v. City of Los Angeles* (2010) 48 Cal.4th 446 (“Krishna Consciousness”).

- Owners may prohibit activity such as solicitation of donations and sales of merchandise. *Los Angeles Alliance for Survival v. City of Los Angeles*, 22 Cal. 4th 352 (2000); *Krishna Consciousness*.
- Owners may prohibit the staging of performances and demonstrations. *Westside Sane/Freeze v. Ernest W. Hahn, Inc.* (1990) 224 Cal. App. 3d 546.
- Owners may require individuals and organizations to comply with rules requiring insurance, identification of participants, identification of principal activities, and prior submission of signs, leaflets, etc. See UNITE.
- Activities protected by the National Labor Relations Act are not an exception to an owner’s requirement to submit an application and comply with time, place, and manner rules. *Glendale Associates Ltd. v. NLRB*, 347 F.3d 1145 (2003); *Best Friends Animal Society v. Macerich Westside Pavilion Property LLC*, 193 Cal. App. 4th 168 (2001).

# APPLICATION

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NOTE: An incomplete or illegible Application will be rejected. Capitalized terms used in this Application have the same meaning as in the Rules for Free Speech Activity in Common Areas (the "Rules").

## APPLICANT

### GROUP OR ORGANIZATION

Legal Name \_\_\_\_\_

Trade Name \_\_\_\_\_

Phone \_\_\_\_\_

Each group or organization must identify a single Representative to be its primary contact.

### REPRESENTATIVE/INDIVIDUAL

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

Email \_\_\_\_\_

Legal ID No. \_\_\_\_\_

ID Type \_\_\_\_\_

### LIABILITY INSURANCE

Company \_\_\_\_\_

Policy No. \_\_\_\_\_

Failure to have insurance coverage will not be cause for denial unless FIGat7th determines that the risks posed by the proposed Activity necessitate insurance.

## FREE SPEECH ACTIVITY

### SUBJECT MATTER

Identify all topics. Be specific.

\_\_\_\_\_

\_\_\_\_\_

### PROPOSED ACTIVITY

For example, leafleting, soliciting signatures, voter registration

\_\_\_\_\_

\_\_\_\_\_

### TARGETED AUDIENCE

What is your intended audience (circle all that apply)?

All Shoppers/Patrons

All Merchants/Employees

Specific Merchant/Employees:

\_\_\_\_\_

Other (describe):

\_\_\_\_\_

### DESIGNATED AREA

Refer to the attached map of FIGat7th and rank the Designated Areas in order of preference.

1<sup>st</sup> Choice \_\_\_\_\_

2<sup>nd</sup> Choice \_\_\_\_\_

3<sup>rd</sup> Choice \_\_\_\_\_

Alternative Area (designate on attached map) – 14 days prior application required.

# APPLICATION (CONT.)

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NOTE: An incomplete or illegible Application will be rejected. Capitalized terms used in this Application have the same meaning as in the Rules for Free Speech Activity in Common Areas (the "Rules").

## PARTICIPANTS

List all participants using the Designated Area. (Attach additional sheet, if required.)

Name \_\_\_\_\_  
Name \_\_\_\_\_  
Name \_\_\_\_\_  
Name \_\_\_\_\_  
Name \_\_\_\_\_  
Name \_\_\_\_\_

Does Applicant claim that any participant is exempt from any of the Rules or Code of Conduct? If yes, please explain the basis for exemption.

Maximum number of participants using the Designated Area at any time: \_\_\_\_\_

## FURNISHINGS/EQUIPMENT

Indicate any items that Applicant requires FIGat7th to provide in the Designated Area (circle). NOTE: If not requested in this Application, items will not be later made available.

Table (1)  
Chairs (3)  
Easel (1)

## APPLICANT HISTORY

List the 3 most recent dates/times that Applicant conducted free speech activity at FIGat7th

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List all other places, publicly or privately owned, at which Applicant has engaged in free speech activity in the past 12 months. (Attach additional sheet, if required.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has Applicant been denied access for the conduct of free speech activity, had any similar application rejected, or had access withdrawn? If yes, explain.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has any person been injured or property been damaged in connection with any similar free speech activity by Applicant? If yes, explain.

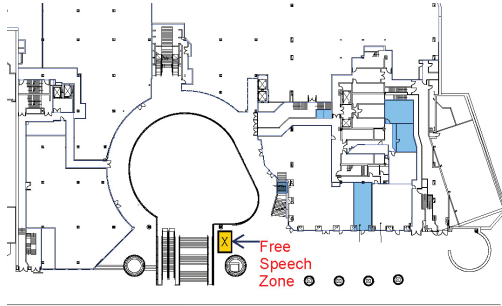
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# APPLICATION (CONT.)

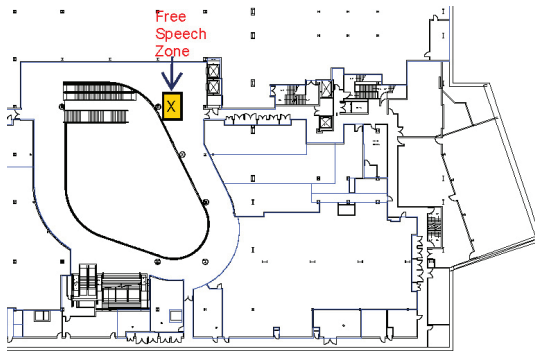
NOTE: An incomplete or illegible Application will be rejected. Capitalized terms used in this Application have the same meaning as in the Rules for Free Speech Activity in Common Areas (the "Rules").

## FIGat7th MAP

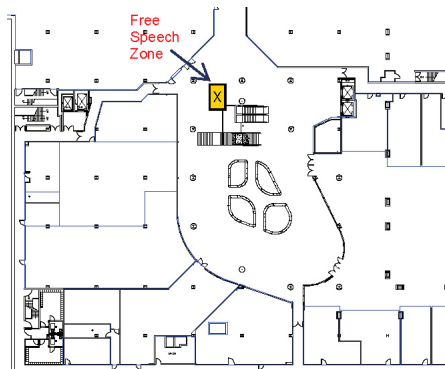
### UPPER LEVEL



### MIDDLE LEVEL



### LOWER LEVEL



## CERTIFICATION/INDEMNITY

The undersigned represents that:

(a) They have read the Rules and the Code of Conduct for FIGat7th, will comply with the same, and will cause all participants accessing FIGat7th under this Application to comply with the same,

(b) If this Application is made on behalf of a group or organization, they are duly authorized to make this Application on their behalf, and

(c) All information contained in this Application is true and correct. Applicant will indemnify and hold FIGat7th harmless against any claim, loss, or damage to persons or property that FIGat7th may incur or suffer in connection with the activities of Applicant and all participants engaging in the free speed activity at FIGat7th under this Application.

Signature \_\_\_\_\_

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

Title/Position \_\_\_\_\_

Date \_\_\_\_\_

# CODE OF CONDUCT

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FIGat7th is a privately-owned shopping center. This Code of Conduct applies to FIGat7th, its common areas, and parking facilities. The Code of Conduct is in effect at all times. Persons violating this Code of Conduct may be banned from FIGat7th or subject to arrest.

## THE FOLLOWING IS STRICTLY PROHIBITED

- Running, skateboarding, cycling, scootering, or rollerblading.
- Yelling or creating loud noises that either exceed the ambient noise level of the Center or disturb the peace of patrons beyond a 10-foot radius.
- Playing musical instruments, or amplified devices.
- Using motorized devices (except by persons with mobility impairment).
- Impeding pedestrian traffic, ingress or egress.
- Failing to wear appropriate apparel or be fully clothed (including shirt and shoes).
- Fighting or making threatening comments or gestures.
- Using obscene language or gestures, or racial, religious, or ethnic slurs.
- Behaving in a way that is disruptive, dangerous, or violates any law.
- Making photos, videos or audio recordings for commercial use, or in a way that harasses or intimidates others.
- Bringing onto the property any weapons or other objects that may cause injury.
- Wearing apparel or displaying body art that may cause a disturbance or incite violence between patrons.
- Littering, defacing, damaging, or destroying any property.
- Soliciting money or contributions.
- Selling products or services, advertising or promoting, conducting market research.
- Bringing onto the property any pets or other animals, except service animals.
- Smoking.
- Wearing apparel that obscures or conceals the face, other than clothing worn for religious or medical reasons.
- Bringing a bicycle into FIGat7th, except in connection with the purchase or servicing of a bicycle at a FIGat7th merchant.

NOTE: Bicycle racks are available for use by shoppers at areas indicated on the FIGat7th directories.