



Town of Surfside
9293 Harding Avenue, Surfside, FL 33154
Phone: (305) 861-4863 Fax: (305) 861-1302

SIDEWALK CAFÉ PERMIT APPLICATION

LICENSE YEAR: OCTOBER 1, 20____ TO SEPTEMBER 30, 20 ____
(Please print all information)

Applicant Name: _____

Applicant Address: _____

Daytime Phone Number: _____

Applicant's Email: _____

Name of Business: _____

Address of Business; _____

Business Phone Number: _____

Name of Business Owner/Operator: _____

Business Days and Hours of Operation: _____

Number of chairs to be used inside of the restaurant: _____

Proposed Number of Tables on sidewalk (R-O-W): _____

Proposed Number of Chairs on sidewalk (R-O-W): _____

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Note to Applicant: A Sidewalk Café Permit (SWC) shall be effective for one year, from October 1 until September 30 of the following year. During the first year of permit application, the permit fee shall be pro-rated.

The Applicant must have a current Certificate of Use and a current Local Business Tax Receipt on file with the Town of Surfside at the time of application for the SWC permit.

Prior to approval of this application, the Town of Surfside will prepare a site plan for the SWC operation, at applicant's expense, that accurately depicts the following: the layout and dimensions of the existing sidewalk area and adjacent private property; proposed location, size and number of tables, chairs, umbrellas and any other sidewalk café furniture; location of trees and/or landscapes areas; location of fountains, parking meters, crosswalks, public benches, trash receptacles, and/or any other public improvements or facilities; and any lighting fixtures or facilities, and any other obstructions, within the proposed Sidewalk Café area. The SWC application site plan must be approved by the Town Manager or his designee prior to the issuance of the SWC Permit, and the permit shall be specifically limited to the subject area shown on the approved site plan. This requirement shall be waived each year thereafter provided that there are no modifications to the originally approved site plan.

The Applicant shall submit to the Town of Surfside photographs, drawings or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs umbrellas and other furniture related to the operation of the proposed sidewalk café. All SWC items must be approved by the Town Manager or his designee prior to the issuance of a SWC Permit.

A copy of the approved SWC site plan shall be maintained on the business premises and shall be available for inspection by Town personnel.

The SWC permit application will not be processed if the applicant owes outstanding fines, monies, fees, taxes or other charges owed to the Town, or has any open code violations or open building permits for the SWC operation.

The SWC permit may not be transferred or assigned to any other business entity. A new business owner/operator will be required to apply for a new SWC permit.

Sidewalk Café operations shall comply with all applicable accessibility codes including, without limitation, the Americans with Disabilities Act (ADA), and state and municipal code provisions addressing accessibility for building construction, as may be amended from time to time.

All Sidewalk Café permit applications shall be accompanied by a Letter of Permission from the property owner where the business is located, in which the property owner grants permission to the business to conduct a SWC operation on the sidewalk area in front of the business location.

Prepared By:

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Town Attorney
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**SIDEWALK CAFÉ PERMITTEE INDEMNIFICATION AND
HOLD HARMLESS AGREEMENT**

THIS SIDEWALK CAFÉ PERMITTEE INDEMNIFICATION AND HOLD HARMLESS AGREEMENT (this “Agreement”) is made and entered this _____ day of _____, 20____, by and between

_____, whose mailing address is _____, hereinafter referred to as "Sidewalk Café Permittee” or “Permittee”, and the TOWN OF SURFSIDE, a Florida municipal corporation, hereinafter referred to as “Town.”

RECITALS

WHEREAS, Permittee has applied for a sidewalk café permit with the Town of Surfside pursuant to Division 3, Article III (Sidewalk Business), of Chapter 18 (Businesses), of the Town Code of Ordinances, for a sidewalk café permit for the business known as _____ (Insert Business Name) and located on the public right-of-way located at _____ Surfside, Florida (Property Address), legally described as _____

_____ (insert the full legal description for the property as maintained by the Miami-Dade County Property Appraiser's Office. See www.miamidade.gov for more information) (hereinafter the “Premises”); and

WHEREAS, Section 18-93 of the Town Code requires that the Permittee indemnify, defend, save and hold harmless the Town, its officers and employees, from an and all claims, liability, lawsuits, damages, and causes of action which may arise out of the sidewalk café permit or the Permittee’s operation or activities on the public right-of-way; and

WHEREAS, the Town is willing to issue a sidewalk café permit to Permittee and allow Permittee to conduct the sidewalk café operations or activities on the public right-of-way, in compliance with Division 3, Article III (Sidewalk Businesses), of Chapter 18 (Businesses), of the Town Code of Ordinances, as may be amended from time to time, subject to the provisions of this Agreement, and without prejudice to the Town’s right to have the sidewalk café operations terminated and all furniture removed from the public right-of-way, at the Permittee’s expense.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and as further consideration for the Town approving Permittee's sidewalk café permit, and for other good and adequate consideration, the sufficiency of which is hereby acknowledged by the Parties hereto, the Parties agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein as if repeated in their entirety.
2. To the fullest extent permitted by applicable Laws and Regulations, Permittee hereby agree(s) to defend, indemnify, save and hold harmless the Town and its commissioners, managers, directors, attorneys, appointed officials, administrators, consultants, agents, and employees from and against all claims, liability, lawsuits, damages, losses, causes of action, and expenses direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitration costs) arising out of or resulting from the sidewalk café permit issued to the Permittee and the Permittee's operations or activities on the public right-of-way, caused, in whole or in part, by any willful, intentional, reckless, or negligent or other act and/or omission of Permittee or any person, employee, agent, or third party acting on Permittee's behalf (including any contractor, subcontractor, or any person or organization directly or indirectly employed by any of them or anyone for whose acts any of them may be liable).
3. In any and all claims against the Town or any of its consultants, agents, or employees by any employee of Permittee or any employee of any person, employee, agent, or third party acting on Permittee's behalf (including contractors, subcontractors, or any person or organization directly or indirectly employed by any of them or anyone for whose acts any of them may be liable), the indemnification obligation under the above Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Permittee or by or for any person, employee, agent, or third party acting on Permittee's behalf (including contractors, subcontractors, or other persons or organizations directly or indirectly employed by any of them or anyone for whose acts any of them may be liable) under workers' or workman's compensation acts, disability benefit acts, other employee benefit acts or any other service of law. Moreover, nothing in this Agreement shall be considered to increase or otherwise waive any limits of liability or to waive any sovereign immunity in favor of the Town established by Florida Statutes, case law, or any other source of law. This indemnification provision shall survive the termination of any Town issued sidewalk café permit or agreement with the Town, however terminated. Nothing contained herein shall be construed as a waiver of any immunity or limitation of liability the Town may have under the doctrine of sovereign immunity in Section 768.28, Florida Statutes. Inclusive in this indemnity provision is the agreement to fully indemnify the Town of Surfside from any claims or actions alleged to have been caused by the Town's acts or omissions. Permittee shall maintain insurance, which will provide for the indemnity provision provided herein.

4. Pursuant to Section 18-92 of the Town Code of Ordinances, the Permittee shall at all times comply with the minimum standards, criteria and conditions for the operation of sidewalk cafes, including taking any and all actions to ensure that its use of the public right-of-way in no way interferes with patrons of other sidewalk cafes, or limits their free, unobstructed passage thereto, or the use of the public right-of-way (including sidewalks) by the general public. Permittee shall also comply with all applicable laws, ordinances, rules, regulations, and laws of the Town of Surfside, State of Florida and all federal laws and regulations, in operating the sidewalk café, and, in particular, shall obtain all required permits from all jurisdictional agencies to operate the sidewalk café. Permittee acknowledges and agrees that the approval and issuance of a sidewalk café permit is conditional and that the Town Manager may require the immediate removal, relocation, and/or storage of all or part of a sidewalk café and furniture for emergency situations, weather events, public safety considerations, or when street, sidewalk or utility repairs or other public construction necessitates such action.

5. For the purposes of this Agreement, and as required by Section 18-93 of the Town Code of Ordinances, Permittee shall obtain and maintain throughout the entire sidewalk café permit period (and any renewal permits or periods), insurance policies naming the Town as an additional insured on a primary and non-contributory basis and Permittee shall evidence this insurance to the Town in accordance with the parameters and instructions outlined within Section 18-93 of the Town Code of Ordinances. Evidence of insurance will not be approved unless all of the requirements have been met to the satisfaction of the Town. Moreover, said insurance shall be maintained until the sidewalk café permit issued to Permittee is expired or terminated and sidewalk café operations cease on the public right-of-way, and failure to maintain such insurance shall constitute a material breach of this Agreement that may result in the Town requiring cancellation of any Town issued sidewalk café permit, termination of all sidewalk café operations on the public right-of-way and removal of all sidewalk café furniture from the public right-of-way, at Permittee's sole expense.

6. All individuals signing this Agreement have the legal authority and capacity to enter into this Agreement and bind the Permittee.

7. As further part of this Agreement, it is hereby understood and agreed that any official inspector or code compliance officer of the Town of Surfside, or its agents duly authorized, may have the privilege at any time during normal working hours to enter and inspect the sidewalk café operations on the public right-of-way or on the Permittee's premises to determine whether the requirements of the Town's Code of Ordinances, and all regulations and conditions herein agreed to are fully complied with.

8. This Agreement may be recorded at the option of the Town, at Permittee's sole expense, and shall inure to the benefit of and be binding upon Permittee's successors, heirs, executors, administrators, representatives, assigns, and all other persons or entities acquiring an interest thereunder.

9. In the event the terms of this Agreement are not being complied with, in addition to other remedies available, the Town is hereby authorized to withhold approval or renewals of the sidewalk café permit, any further permits, and to refuse to make any inspections or grant any approvals on the Premises until such time as there is full compliance with this Agreement.

10. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida and all applicable and duly adopted ordinances, regulations, and policies of Miami-Dade County and the Town now in effect, as may be amended from time to time, and those hereinafter adopted.

11. The location for settlement of any claims, controversies, disputes, arising out of or relating, directly or indirectly, to any part of this Agreement or any breach hereof, shall be in Miami-Dade County, Florida.

12. Permittee agrees that he/she shall be liable for reasonable attorney's fees and costs incurred by the Town, if the Town is required to take any actions, through litigation or otherwise, to enforce this Agreement.

13. Town, shall be entitled as a matter of right to an injunction issued by any court of competent jurisdiction restraining any violation of this Agreement as well as recovery of any and all costs and expenses sustained or incurred by Town in obtaining such an injunction including, without limitation, reasonable attorney's fees and costs.

14. This Agreement constitutes the entire Agreement between the Parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Any amendments to or waivers of the provisions contained herein shall be made by the Parties in writing.

15. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portions hereto.

[SIGNATURE AND NOTARY FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the Permittee has executed this Agreement on the day and year first written above.

SIDEWALK CAFÉ PERMITTEE:

Signature

Print Name & Title

Date Executed: _____

Notarization of Permittee's Execution

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, in the year 20____, by _____, as _____ (Title), of _____ (Sidewalk Café Permittee), who is/are personally known to me or has/have produced _____ as identification.

My Commission Expires: _____

Notary Public, State of Florida