

PUBLIC SPACE USE AGREEMENT

This Agreement is between the City of Dothan and,

(PLEASE PRINT THE NAME OF THE OWNER OR AGENT)

(PLEASE PRINT THE NAME OF THE BUSINESS)

(PLEASE PRINT STREET ADDRESS)

is subject to the following Conditions of Approval. This executed agreement shall serve as a permit for the use of the public space by the above named establishment in accordance with the drawing and other information provided by the applicant.

CONDITIONS OF APPROVAL

Following are the conditions of approval for the establishment and operation of outdoor café on public property (sidewalk, alley, streets, etc.) for the purpose of consuming food or drink. Execution of this agreement constitutes formal recognition of the use of public space by the above named person or establishment. This agreement only applies to establishments located in the Dothan Downtown Incentives Area as depicted on the attached map. An outdoor café may be established by a licensed food service establishment which may or may not sell alcoholic beverages. No permit will be granted to establishments engaged primarily in the sale of alcoholic beverages as licensed by the City of Dothan and the ABC Board.

1. The permittee shall legibly complete and sign the application form.
2. By signing this form, the applicant agrees to indemnify, defend and hold harmless the City for any and all claims for liability or damages arising from the operation of the Sidewalk Café.
3. The permittee shall attach a scale drawing to this application illustrating the area proposed to be occupied and any improvements to be provided. The original application shall be delivered to the Department of Planning and Development, Room 305 in the Civic Center. Improvements shall meet all building code requirements including electrical service. All improvements shall be removed if this agreement is terminated by either party.
 - a. A narrative description of the number, type, materials, color and location of all tables, chairs, umbrellas or other furnishings or fixtures intended to be placed at each outdoor cafe;
 - b. The location of any doors leading from any abutting buildings to each outdoor cafe;
 - c. The number of feet and location of unobstructed space permitting free passage of pedestrian traffic around each outdoor cafe;

- d. The location of where any food or drink is intended to be prepared;
 - e. The type of temporary protective barrier separating the eating and serving area of each outdoor cafe from pedestrian traffic;
 - f. The location of existing fire hydrants, parking meters, planters, trash receptacles, outdoor lighting fixtures, utility poles, benches, handicapped ramps, street furniture and any other permanent public fixtures within 50 feet of the permitted area;
 - g. The square footage of area to be occupied by the outdoor cafe;
 - h. Any additional information concerning the nature or design of each such outdoor cafe that the planning department may request.
4. The permittee shall provide a certificate of general liability insurance and workers compensation insurance. Limits of liability for general liability insurance shall be at a minimum, five hundred thousand dollars (\$500,000.00) per occurrence, five hundred thousand dollars (\$500,000.00) personal and advertising injury, one million dollars (\$1,000,000.00) general aggregate and \$1,000,000.00 products/completed operations aggregate. The amount of required general liability coverage shall be not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The City shall be named as an additional insured on the face of the certificate and the insurer shall have no less than a B++ rating by the most recent AM Best Insurance Rating Guide. The certificate of insurance shall provide the city with thirty (30) days' written notice of cancellation or material change in the general liability insurance coverage. The cancellation of any such coverage shall have the effect of suspending the permit of such to operate the outdoor cafe covered thereby until a new certificate of insurance complying with the provisions of this section is filed with the city manager.
 5. This agreement does not authorize the permittee to sell or allow consumption of alcoholic beverages on the permitted space without approval of the ABC Board.
 6. No permit shall be issued unless the applicant can demonstrate that a minimum width of three (3) feet of unobstructed paved space is available for pedestrian traffic and be contiguous to the sponsoring establishment. A sidewalk width of five (5) ft. shall be available to allow space for a wheel-chair to turn-around within 200 ft. of the permitted premises.
 7. Should this agreement be canceled, any furniture or other property is proposed to be installed, affixed, or attached to improvements in the public right-of-way, the holder of the permit shall be responsible for putting the sidewalk or other public improvements in the same condition they were in at the time the furniture or other improvements were first installed, affixed, or attached. Any furniture or other improvements are the sole responsibility of the owner at all times. All furniture and related improvements shall be approved by the planning department.
 8. In outdoor cafes within the right-of-way where alcoholic beverages are consumed, the permitted area shall be separated from the remaining sidewalk area by a permanent or removable divider of not less than three (3) feet or more than four (4) feet in height. Acceptable materials for dividers include decorative wrought iron, tubular steel/aluminum, wood or other durable material. The design and construction

materials shall be show or described (see #3 above) and approved by the planning department.

9. Any change or transfer of ownership of an outdoor cafe for which a permit has been granted shall terminate this permit and shall necessitate re-application in conformance with these requirements.
10. Each business operating an outdoor cafe shall dispose of all garbage, trash, and other solid wastes inside the establishment of which it is an extension.
11. Each business operating an outdoor cafe shall be solely responsible for keeping the public right-of-way in front of the business clean and free of litter.
12. The permitted area of a sidewalk cafe may not block or obstruct a fire exit of any building.
13. At the sole discretion of the City Manager, this agreement shall be subject to revocation or suspension with 30 days' notice for failure to comply with the above conditions, or when, in the opinion of the City Manager, the public necessity, convenience or good renders such revocation advisable.
14. This agreement shall be deferred during any gathering authorized under Chapter 6, Article III of the city code (Entertainment District).

The signature of the applicant below signifies and acknowledges that applicant has read and agrees to comply with the above conditions of approval and will defend, indemnify and hold harmless the City of Dothan, its employees, officers, agents and insurers (individually an "Indemnitee") from any and all claims for liabilities or damages ("Claims") arising from the issuance of this permit and the occupation and use of the public space, the extent of which is depicted on the attached illustration or as otherwise described. This shall apply to claims of whatever kind or nature, whether real or imagined and to all expenses, judgments or settlements arising out of such including attorney's fees.

Dated as of this _____ day of _____, 20 _____.

Applicant - Print Name

Mark Saliba
Mayor

Applicant -Title

Todd L. McDonald, AICP
Planning Director

Applicant Signature

Randy Morris, P. E.
Acting Public Works Director

