



Town of Fort Myers Beach

TIMES SQUARE SIDEWALK CAFÉ

APPLICATION

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|---------------------------|
| <u>Official Use Only:</u> |
| Permit # _____ |
| Zone _____ |

Property Address: _____

Property Owner's Name: _____ Strap Number: _____

Business Name: _____ Contact Person: _____

Phone Number: _____ Email: _____

Detailed Description of Business (please be specific): _____

Period Requested: _____

ADDITIONAL INFORMATION / SUBMITTAL REQUIREMENTS

- A. Application fee \$100.
- B. Site Plan depicting tables, chairs, umbrellas and hostess stand. (existing & requested area)
- C. Current Survey.
- D. Outdoor furniture specifications.
- E. Copy of Business Tax Receipt.
- F. Hold Harmless Agreement.
- G. Owners Affidavit.
- H. Copy of valid certificate of liability insurance in the amount of \$1,000,000 showing the Town as additionally insured.
- I. Proof of Valid Fire Department Inspection.
- J. Proof of approval for Alcohol if applicable.

PERMIT CONDITIONS

Rules and Regulations Vendors need to be aware of:

- Extension area must be directly adjacent to (in front of) business operation as identified on Exhibit 1.
- Business must be conducted only within the premise extension area by the adjacent existing business (no exception).
- No subletting to other vendors will be permitted.
- Permittee may not place any objects outside of the extended use area within the pedestrian plaza.
- Extension area will be marked off and designated by a blue marked paver or other marker material as indicated by the Town.
- Permittee may place personal property, limited to a hostess stand, tables (with or without umbrellas) and chairs in designated area immediately adjacent to their place of business upon permit approval and payment of all fees.
- Umbrellas must maintain a 7 foot clearance or greater from the ground to the overhang; overhang must stay within permitted extended use area.
- No tables, chairs or any other parts of an outdoor seating area will be attached, chained or in any manner affixed to any tree, post, sign or other fixture, curb or sidewalk in or near permitted area.



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- Food preparation must only occur within the enclosed principal building containing the eating or drinking establishment.
- All outdoor entertainment must cease by 11:00 PM. The property must utilize best management practices that include the following:
 - The Permittee must utilize an internal sound system that will be managed and controlled by the property manager
 - All amplified performers will utilize the installed internal sound system
- The property will adhere to the Town's Noise Ordinance.
- One menu board is permitted per each extended business use area.
- No secondary signs allowed.
- Signage is not permitted on tables, chairs, umbrellas, or any other furnishings associated with outdoor seating areas that are visible from right-of-way.
- The permittee will provide a seating plan that provides the width and depth of the use area, including the number of tables, chairs, umbrellas and location of hostess stand if applicable.
- Chairs and umbrellas must be approved by the Town.
- Permit will extend from October 1 through September 30 of the following year.
- All fees must be submitted to the Town by October 31st, 2015.
- If the Permittee chooses to pay monthly, an additional administrative fee will be charged and will be due on the last day of each month for the following month.
- Should the Permittee fail to pay the annual or monthly fee, the agreement will be considered null and void and Permittee will be required to vacate the extension of premises.
- Agreements will not be effective until all fees are paid.
- Should the extended business use area be unavailable for Town related projects, the Permittee will not be subject to fees for the duration of the project.
- Any business that is required to have a State of Florida Alcoholic Beverages and Tobacco Extension of Premises Permit must provide a current copy to the Town. Permittee must apply for an on-premises consumption of alcoholic beverages permit if applicable. The permit for consumption-on-premises requires the following:
 - The site plan must include a detailed seating plan.
 - A written statement describing the type of state liquor license to be acquired, e.g., 2 COP, 4 COP, SRX, 11C, extension of premises, etc., and the anticipated hours of operation for the business, must be submitted.
- Insurance coverage must remain in effect for the duration of the permit agreement.
- Each Permittee must maintain the cleanliness of the extended business use area.
- Debris such as paper products, cans/bottles, straws, cigarette butts, palm fronds must be picked up daily.
- The premise extension area will be cleared of all property when notified by the Town that a paver cleaning is scheduled.
- Tables, chairs and other objects must be immediately removed for emergencies and general maintenance.
- Permittee must stack neatly all chairs, tables and umbrellas every night.
- The Permittee assumes and accepts responsibility of any damage other than normal wear and tear caused to Town property by reason of the use of the property.
- All trees, lamp posts and public benches are the property of the Town of Fort Myers Beach and must not be used by the business in any way, nor will they be altered in any way by the business.
- All trash receptacles must be kept on Permittee property in a neat and sanitary manner.
- All cardboard is to be flattened and placed in a Town of Fort Myers Beach plastic bag. Town Staff has right of entry to collect waste as needed.

- Permittee will pay trash removal fee as established by Town Council and set forth in the fee schedule.
- Permittee must not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
- All utility easements must be kept clear for easy accessibility.
- Permittee must keep all fencing, tables, chairs etc. out of the 20 foot Fire Lane Path and 5 foot utility easements as depicted on Exhibit 1.
- The Fire Lane Path must be kept clear of all extended business use to allow the passage of emergency vehicles.
- No soliciting of any kind is permitted outside of the business use area including food sampling, handing out menus etc.
- After three (3) written warnings to the business owner and property owner, the extension permit will be revoked.
- Approval of sidewalk café application is subject to revocation at all times. May be revoked or suspended if found that:
 - The permit holder does not have insurance which is correct and effective in the minimum amounts
 - Any necessary business or health permit or license has been suspended, revoked or canceled;
 - The permit holder exceeds the approved square footage by placing any additional tables, chairs, etc., beyond the approved area;
 - The permit holder has failed to correct violations of this article or conditions of this permit within 72 hours of receipt of the notice of violations delivered in writing to the property; or.
 - The site is not in compliance with the approved outdoor seating site plan.
 - The Permittee does not pay monthly/yearly extension of use fee.
- If a Permittee's license is revoked under this section, no refunds will be issued.



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HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

_____, assumes all risks in the operation and maintenance of the permitted area during the term of this permit and any renewal thereto and will be solely responsible and answerable for all accidents or injuries to persons or property arising out of or caused in pursuant of the Sidewalk Café Permit, or arising out of the outdoor dining operation and/or maintenance of the permitted area and appurtenances thereto. Permit Holder further agrees to maintain its outdoor facilities in good repair and in a neat and clean condition. Permit Holder must maintain clear pathways as well as all laws and ordinances of the Town, county, state and federal agencies directly relating to the operation of the sidewalk café described in the permit.

_____, hereby covenants and agrees in consideration of the grant by the Town of Fort Myers Beach ("Town"), of a permit to operate a Sidewalk Café and for other good and valuable consideration, I hereby agree to defend, indemnify and forever hold the Town, its officers, officials, employees and agents, harmless against any and all claims brought against the Town, its agents, officers, officials and/or employees from all claims (which must include, but not limited to, the defense of any claim and any and all costs in any judicial or quasi-judicial proceedings and for any and all damages or penalties of any kind or nature), for any loss, damage or injury of any kind or character whatsoever without limitation, including reasonable attorney's fees, sustained by any person or property whatsoever kind and nature, whether direct or indirect, as a result and in relation with the operation and maintenance of a Sidewalk Café on Town owned property whether such damages are due or claimed to be due to any carelessness, negligence or improper conduct of the Permit Holder, or any servant, agent or employee of the Permit Holder.

_____, further agrees that at any time the Town may request the temporary removal of the outdoor dining facilities to make repairs to the sidewalk, parking area, water, sewer, or other utilities located on the sidewalk or adjacent to Town property if said facilities interfere with the ability of the Town to access or to make repairs.

_____, agrees to Hold the Town Harmless for any disruption, loss or termination of business during the repair period.

_____, further agrees that he/she has obtained and will continue to maintain the required Commercial General Insurance and has listed the Town of Fort Myers Beach as an additional insured on said policy and the certificate of endorsement has been made part of said insurance policy. Said Certificate of Insurance will be furnished to the Town. It is intended to provide a source, in addition to the Permit Holder, from which the Town may seek payment of (a) Permit Holder's liability for both its own negligence, as well as actual or alleged negligence of the Town and/or (b) the cost of defending such claims.

I HAVE CAREFULLY READ THE FOREGOING HOLD HARMLESS AGREEMENT AND KNOW THE CONTENTS THEREOF AND HAVE SIGNED THIS DOCUMENT AS MY OWN FREE ACT.

I expressly agree that this Hold Harmless Agreement is intended to be as broad and as inclusive as permitted by laws of the State of Florida, and that if any portion thereof is held invalid, it is agreed that the balance will notwithstanding, continue in full force and effect.

State of Florida
County of _____

On this _____ day of _____, 20__ before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by _____ (name of Corporate Officer), _____ (title), of _____ a _____ (state of corporation) corporation, on behalf of the corporation.

Witness my hand and official seal

Applicants Name and Signature

Notary Public, State of Florida
My Commission Expires: _____

Printed, Typed or Stamped Name of Notary Public exactly as commissioned

Personally known to me or produced identification: Type of ID: _____

Landowners Consent to Operate A Sidewalk Café

The owner of the premises where you plan to operate your sidewalk café must complete this form.

I certify that I, _____ (Name), am the legal owner of the land and improvement located at: _____ (Address).

Further, I give my consent to, _____ (Name of Applicant/Lease Holder) to maintain a sidewalk café in front of said land and improvement while I am the owner, unless sooner revoked by me. Owner hereby agrees to provide Lessee with a thirty (30) day notice of Revocation. Owner is hereby responsible to provide notice of such revocation to the Town of Fort Myers Beach within ten (10) days of the revocation.

I swear that the information provided herein is true, accurate, and complete.

Signature of Owner

Printed Name

(_____) - _____
Telephone Number

Address

State of Florida
County of _____

On this _____ day of _____, 20____ before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by _____ (name of Corporate Officer), _____ (title), of _____ a _____ (state of corporation) corporation, on behalf of the corporation.

Witness my hand and official seal

Applicants Name and Signature

Notary Public, State of Florida
My Commission Expires: _____

Printed, Typed or Stamped Name of Notary Public exactly as commissioned

Personally known to me or produced identification: Type of ID: _____

Signature (Applicant/Authorized Agent) _____

Typed or printed name _____ Date _____