



CITY OF TYBEE ISLAND
SIDEWALK CAFÉ OR MERCHANDISE DISPLAY
PERMIT APPLICATION

403 Butler Avenue, P.O. Box 2749, Tybee Island, Georgia 31328
 (912) 472-5033 FAX (912) 786-9539
Lschaaf@cityoftybee.org

<i>FOR OFFICE USE ONLY</i>	
Date Received	_____
New or Renewal	_____
License Number	_____

Business name			
Street address			
Mailing address			
Name of business owner:		Email	
Phone numbers of owner:	Business	Home	Mobile
Name of applicant if other than owner:		Email	
Phone numbers of applicant:	Business	Home	Mobile
Relationship of applicant to owner (<i>same, employee, agent, etc.</i>)			
Mailing address of applicant			

Application is for: Sidewalk Café Merchandise Display

- The length and width in feet of the public right-of-way to be used: _____
- The number of tables and chairs to be provided at the Sidewalk Café: _____

3. Hours of operation of the Sidewalk Café or Merchandise Display:

Sunday: _____ until _____
 Monday: _____ until _____
 Tuesday: _____ until _____
 Wednesday: _____ until _____
 Thursday: _____ until _____
 Friday: _____ until _____
 Saturday: _____ until _____

Sidewalk elements of cafés and merchandise displays must be secured daily when normal business operations cease.

The applicant shall not replace the approved items or change the layout without written authorization from the Community Development Director.

DOCUMENTS REQUIRED WITH APPLICATION

- Affidavit (*must be notarized; see page 2*)
- Indemnification Agreement (*must be notarized; see page 3*)
- Certificate(s) of Insurance listing the City of Tybee Island as an additional insured (*see page 4*)
- A Site Plan to scale with measurements of the proposed sidewalk area and all items to be placed on or within it (*see page 4*)
- Photograph(s) of the sidewalk area

Applicant's signature _____

Date _____

Printed name _____

AFFIDAVIT

I, _____, acting in the capacity of _____,
name *owner, agent, employee, etc.*
on behalf of the establishment known as _____ located at
business name
_____, Tybee Island, Georgia, attest to the following:
street address

- I have reviewed this application, and all entries are correct and accurate to the best of my knowledge.
- There are no omissions of fact.
- There are no items located on the sidewalk where the Sidewalk Café or Merchandise Display is proposed that would prohibit the Community Development Director from issuing a Sidewalk Café or Merchandise Display Permit.
- No violation(s) of Georgia Law, Federal Law, Local Ordinance, or any Rule or Regulation of the State Revenue Commissioner, or any Rule or Regulation of the City of Tybee Island or Chatham County have been adjudicated against this business within the last 12 months preceding the date of the application, or,
- The following violation(s) of Georgia Law, Federal Law, Local Ordinance, or Rule or Regulation of the State Revenue Commissioner, or Rule or Regulation of the City of Tybee Island or Chatham County have been adjudicated against this business within the 12 months preceding the date of the application:

- I have read the South End Policies and Procedures and will abide by said South End Policies and Procedures at all times during the term of the Sidewalk Café or Merchandise Display Permit.

Notarized Signature: _____ Date: _____

Printed Name: _____

STATE OF GEORGIA
COUNTY OF CHATHAM

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by
_____ who is personally known to me or who has produced identification.

Signature of Notary Public

My Commission expires: _____

**INDEMNIFICATION AGREEMENT
(RELEASE AND HOLD HARMLESS AGREEMENT)**

This Indemnification, Release and Hold Harmless Agreement is made this _____ day of _____, 20____, by

_____ (“APPLICANT”) for the benefit of the City Tybee Island, Georgia (“CITY”). When referred to herein, the CITY means the Community Development Director, the municipality, its City Council, and each member thereof, and its officers, employees, advisory board members and representatives.

WHEREAS, the APPLICANT is the owner or lessee of the property located at _____, Tybee Island, Georgia; and,

WHEREAS, the APPLICANT has applied for a Sidewalk Café or Merchandise Display Permit for the temporary use of the sidewalk area abutting the property described above pursuant to City Codes, ordinances, and policies and is required thereby to indemnify, defend and hold and save the CITY harmless for its use of the public right-of-way (hereinafter collectively the “PROPERTY”); and,

WHEREAS, the APPLICANT is authorized to and has obtained all necessary approvals for this Agreement,

NOW, THEREFORE, in consideration of the CITY allowing the APPLICANT to use the public right-of-way for its Sidewalk Café or Merchandise Display the APPLICANT agrees as follows:

1. The above recitals are true, and correct and are incorporated herein by reference,
2. The APPLICANT agrees to indemnify and hold and save the CITY harmless from any and all damages, loss or liability occurring by reason of any injury of any person or property which may occur as a result or consequence of the issuance of the Sidewalk Café or Merchandise Display Permit or the use of the PROPERTY by the APPLICANT or their family, officers, agents, representative, guests, employees, invitees, or persons contracting with either or any of them or occasioned by an act or omission, neglect, or wrongdoing of the APPLICANT or their family, officers, agents, representative, guests, employees, invitees, or persons contracting with either or any of them. APPLICANT will, at their own cost and expense, defend and protect the CITY against any and all such suits, claims or demands which may be claimed to have arisen as a result or consequence of or in connection with the issuance of the Sidewalk Café or Merchandise Display Permit or the use of the PROPERTY by the APPLICANT or their family, officers, agents, representative, guests, employees, invitees, or persons contracting with either or any of them or occasioned by an act or omission, neglect, or wrongdoing of the APPLICANT or their family, officers, agents, representative, guests, employees, invitees, or persons contracting with either or any of them. Notwithstanding the foregoing, this should not be construed so as to require the applicant or anyone else to indemnify the CITY for claims arising from the sole negligence of the CITY, its agents, employees, or officers.
3. The APPLICANT does hereby remise, release, satisfy, quit claim, and forever discharge the CITY from any and all actions, suits, claims or demands that they ever had, now has, or may have in the future against the CITY as a result of the granting of the Sidewalk Café/Merchandise Display Permit or because of the use of the PROPERTY by the APPLICANT or their family, officers, agents, representatives, guests, employees, invitees, or persons contracting with either or any of them.
4. The APPLICANT will maintain liability or other insurance as required by City codes, ordinances, and policies which shall name the CITY as an additional insured and for which the CITY will be given a current certificate. Said liability or other insurance shall provide coverage for any suit or claim arising from the issuance of the Sidewalk Café or Merchandise Display Permit or the use of the PROPERTY by the APPLICANT.
5. The terms of this Indemnification Agreement shall be binding upon and inure to the benefit of the parties and their heirs, legal representatives, successors and assigners.

Notarized signature: _____

Printed name: _____

Date: _____

STATE OF GEORGIA
COUNTY OF CHATHAM

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ who is personally known to me or who has produced identification.

Signature of Notary Public

My Commission expires: _____



SOUTH END POLICIES AND PROCEDURES

Dear Business Owner,

The intent of the South End Policies and Procedures is to provide standards for sidewalks in order to enhance the quality and safety of the pedestrian experience within the South End Overlay Zone/C-1 Beach Business District while simultaneously helping to support the growth and vitality of local businesses. These goals are consistent with the vision for *The Strand Downtown Historic District* as outlined in the Tybee Island Comprehensive Plan, Section 1.2.11.

These standards are provided to ensure a smooth process for approval to display merchandise or provide an outdoor café on public property. These Policies and Procedures are administered through the Community Development Department which is available to guide the permit application process. The Tybee Island Main Street Program Coordinator is also available to answer your questions.

Sincerely,

Community Development Director
(912) 472-5031

Main Street Program Coordinator
(912) 472-5103

I. PURPOSE

The South End Policies and Procedures are consistent with the City of Tybee Island's objectives of developing attractive pedestrian walkways and satisfying the desire of local businesses to use public space for outdoor dining or special event merchandise displays. Permits are issued at no cost and expire December 31st of each year. It shall be unlawful for any person to place items on a right-of-way without a valid permit. These standards are subject to change at any time and without prior notice. These Policies and Procedures supersede all prior approvals for use in a public right-of-way.

II. CERTIFICATE OF INSURANCE

- A. Each business shall furnish a Certificate of Insurance evidencing commercial general liability insurance with limits of not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate combined single limit, for bodily injury, personal injury and property damage liability. The insurance shall provide 30-days written notice to the City of Tybee Island if coverage is substantially changed, canceled, or not renewed.
- B. The City of Tybee Island shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café or a merchandise display; and the business shall indemnify, defend and hold the City harmless from any loss that results directly or indirectly from the permit issuance or the operation of the sidewalk café or merchandise display.
- C. In addition, if alcoholic beverages will be served at a sidewalk café, the applicant shall provide proof of liquor liability insurance for the sidewalk café with limits of not less than \$1,000,000 in such type as shall be acceptable to the City.
- D. The business shall maintain the insurance coverage required under this section during the permit period. Failure of the business to maintain the insurance required by this section shall result in the immediate revocation of the sidewalk permit.

III. APPLICATION FOR TEMPORARY USE OF THE PUBLIC SIDEWALK

A business seeking to use a sidewalk shall provide annually an Application, Affidavit, Indemnification Agreement, Certificate(s) of Insurance, and a Site Plan. The applicant as listed on the application will thereafter be the city's contact concerning the temporary use. Sidewalk permits are not transferable in the event of a change in ownership or management. The Site Plan shall be to scale with measurements of the sidewalk area to be used and shall include all items to be placed on or within the sidewalk area. The use of the sidewalk must not interfere with the use of the right-of-way by adjoining property owners/tenants. In the event an application is not approved, a business is encouraged to work with staff to revise the application and/or provide the required documents to arrive at a submittal that complies with the Policies and Procedures and all applicable codes.

A. Space and Sidewalk Elements

1. Sidewalk cafés and special event merchandise displays are intended for sidewalks with a width of 10 or more feet from the property line to the curb, however, use of a narrower sidewalk may be considered on a case-by-case basis. The sidewalk area shall be considered an extension of the business and must be located directly in front of the business. Permission of an adjacent property owner will not be allowed as an exception to this requirement.
2. The area to be used may extend from the building toward the curb. A minimum clear pedestrian path of 5-feet is required

at all times. In areas of high pedestrian traffic or in conditions that necessitate additional clearance, a path greater than 5-feet may be required. The path shall be free of trees, parking meters, utility poles, signage, or other obstructions. All activities by patrons and employees (i.e. serving, sitting, dining, shopping, etc.) shall not encroach into the required 5-foot pedestrian path at any time.

3. Where a sidewalk café or special event merchandise display is located at a street intersection, alley, or driveway, the vision clearance requirements of Section 3-050 shall apply.
4. Compliance with ADA provisions as outlined in O.C.G.A. Title 30 Accessibility Code is required at all times. A sidewalk café or merchandise display cannot block access to accessible ramps, access points, and/or parking.
5. Tables, chairs, benches, café barricades, umbrellas, awnings, display racks, signage, and any other object of a sidewalk area shall be of quality materials and workmanship to ensure the safety of users. Objects may not impinge on entrances or exits, loading zones, city benches, city trash cans, etc. The appropriate density of items will be affected by the specific conditions of the location. Items should be kept to a minimum so as not to cause crowding or a nuisance. Items shall be placed only as shown on the approved site plan.
6. Outdoor heaters may be utilized when in compliance with the guidelines of the Amendments to the International Fire Code, as adapted for the State of Georgia. The location of an outdoor heater must be shown on the site plan.
7. A sidewalk element shall not be permanently attached to the sidewalk.
8. The business shall be responsible for the restoration of the sidewalk if any damage occurs.
9. Sidewalk elements shall be stacked/set aside immediately upon ceasing daily operation and must be secured in such a manner as to prevent their use. Businesses are strongly encouraged to store sidewalk elements indoors.
10. Only establishments with an Occupational Tax License Code of "Restaurant" may operate a sidewalk café.
11. The Community Development Director may place additional conditions upon the issuance of a permit in order to ensure the protection of the public walkways and the rights of adjoining property owners and the health, safety and general welfare of the public.
12. Use of the right-of-way may be temporarily suspended, without prior notice or hearing, at the discretion of the city when there is reasonable cause that the use may interfere with public safety, special events, street improvement or construction activities, cleaning, or other activities affecting the health, welfare or safety of the public.
13. A permit is non-permanent in nature and the applicant shall have neither property interest in, nor any entitlement to, the issuance of or continuation of any such permit.
14. Lighting may be utilized if approved by the Community Development Director. Lighting shall complement the building and sidewalk area and shall not cause a glare to passing pedestrians or vehicles. All lighting must be turtle-friendly, as required by the Land Development Code. An electrical permit is required for the installation of lighting.

B. Overhead Structures

Umbrellas, awnings or canopies, either permanent or temporary, may be utilized if approved by the Community Development Director. They shall not interfere with trees. They shall have no support posts attached to the right-of-way. The bottom of an open umbrella shall be a minimum of 7-feet above the sidewalk. The bottom of an open awning or canopy shall be a minimum of 10-feet above the sidewalk. An awning or canopy exceeding 24-inches from the wall of the structure requires approval of the Mayor/City Council. A building permit is then required for installation. An awning or canopy shall have a rigid framework capable of withstanding 140 mile per hour 3-second wind gusts with a non-combustible covering that meets fire propagation performance of NFPA 701 and/or has a flame spread index of 25 or less (Class A) when tested in accordance with ASTM E84.

C. Sidewalk Signage

Permissible signage includes one sandwich board per business not to exceed 3-feet by 5-feet on the sidewalk immediately in front of the business. See Section 4-050(O). The sign may be displayed during business hours only. The sign must also be removed during inclement weather and any time the city requests removal. The sign shall be located as close as possible to either the curb or the building, so it does not block the required 5-foot minimum pedestrian path. Signage must not be attached to a utility post or a tree. No benches or café barricades with advertising are allowed. Signage must be included on the site plan depicting all other sidewalk objects.

Cafés are encouraged to post "For Customer Use Only" notices at seating areas if that is the policy of the business.

D. Vending Machines

There shall be one vending machine allowed where a business has at least 90-feet of building frontage and is located on a sidewalk that is at least 10-feet wide. A vending machine shall be complementary to the surrounding streetscape. A request for a vending machine must be included on the site plan depicting all other sidewalk elements.

IV. USE AND OPERATION

- A. Sale transactions shall not occur on sidewalks. All sales must occur in the building of the business.
- B. Outside cooking is prohibited.
- C. Alcoholic beverages may not be stored or mixed within the sidewalk area. Equipment necessary for the dispensing of any

other item shall be shown as a sidewalk element on the proposed site plan.

- D. Permit holders are prohibited from providing amplified music, whether live or recorded. No speakers, microphones, televisions, or other audio or video devices shall be allowed. Special consideration on a case-by-case basis may be given for special events or holidays.
- E. The business must provide supervision of the sidewalk area to ensure the proper conduct of patrons and that the area is in compliance with these Policies and Procedures at all times.
- F. The areas within and surrounding a sidewalk café or merchandise display shall be kept clean and sanitary. The area shall be policed routinely to ensure immediate removal of all litter, food, etc. Daily cleaning is required in order to be welcoming to pedestrians. The permit holder shall not wash garbage cans or any other container, or other property of any nature, on the sidewalk. All cleaning must be performed in accordance with federal, state and local regulations.

V. ENFORCEMENT

The Community Development Director and/or the City Marshal will investigate any complaint and will intermittently inspect sidewalk cafés and merchandise displays after permits have been issued. Any violation of the Policies and Procedures, or any deviation from the approved site plan or any willful omission on the application will result in revocation of the permit and/or a citation being issued. Each day a violation continues shall be deemed a separate and distinct offense. A fine shall be in addition to any expenses incurred for restoration or repair of the right-of-way, which shall be the responsibility of the applicant.

The issuance of a sidewalk café/merchandise display permit is a revocable license granted by the City of Tybee Island.

VI. APPEAL

- A. Any person aggrieved by any action of the Community Development Director under this policy may appeal the decision to the City Manager by setting forth the facts and circumstances regarding the appealed action. The City Manager shall notify the applicant, in writing, of the time and place set forth for a hearing on the appeal request. The right to appeal the action of the Community Development Director shall terminate upon the expiration of 15 business days following the date written notification was provided by the Community Development Director.
- C. The hearing on the appeal request shall be held within 20 business days of the City Manager’s receipt of the appeal request.
- D. The hearing shall be presided over by the City Manager. A decision regarding said appeal shall then be issued no later than 10 business days following said hearing. The decision of the City Manager shall be final.

VII. TRASH COLLECTION

Roll-out carts are prohibited on Tybrisa Street, from Strand at the south end of the 14th Street Parking Lot (1510 Strand; South Annex) to Izlar Avenue, and from Butler Avenue at the north side of 17th Street to 1511 Butler Avenue.

The areas listed above shall be served by compactor units provided by the City. The compactors are located at 13 Atlantic Avenue behind 16 Tybrisa and at 1604 Lovell Avenue behind 1603 Inlet Avenue.

The owners and/or occupants of all properties served by compactor units shall pay a commercial waste collection fee and commercial waste disposal fee for compactor service at the rate per cubic yard specified on the fee schedule on file with the City Clerk. The fee for compactor use originated from roll-out cart usage prior to the installation of compactor units. A business may choose to obtain a private dumpster to be located wholly on private property instead of using a compactor unit. The dumpster must be properly screened in accordance with Sec. 22-192(b)(2) of the Municipal Code of the City of Tybee Island.

At any time, the city may expand the designated areas where roll-out carts are prohibited. An amendment to require additional businesses to participate will be based on the capacity of the compactors and/or the addition of compactors within the South End.

City-provided trash cans located on the sidewalks are for use by pedestrians only. Businesses must not use trash cans. Business trash is to be placed in a compactor only, not a city trash can.

The following materials shall not be deposited in compactors:

- a. Appliances or other heavy metal objects.
- b. Steel drums.
- c. Furniture, bed springs and mattresses.
- d. Tires.
- e. Wooden crates.
- f. Construction and demolition debris.
- g. Trees, limbs, leaves, and other vegetation.
- h. Hazardous materials including paint and chemicals.
- i. Dead animals.