



DOWNTOWN SIDEWALK CAFÉ, RESTAURANT, OR BAR PERMIT

Per Section 250.802, operating a Downtown sidewalk café or bar on City sidewalks is unlawful without a permit.

Operating a downtown sidewalk café, restaurant, or bar means serving food or beverages (including alcoholic beverages if the café, restaurant, or bar is legally authorized to do so) from a café, restaurant, or bar to patrons seated at tables located within the sidewalk area or alleyway immediately adjacent to the café, bar or restaurant frontage. Preparation or storage of food/beverage (including alcoholic beverages) on the sidewalk or alleyway are excluded and precluded from this definition.

Rules and Regulations

Chapter 250 (Miscellaneous Business Regulations), Part 8 (Downtown Sidewalk Cafes)

1. Cafes / restaurants must be located within the boundaries of the Central Business District, as defined by the Comprehensive Plan, the boundaries of which are coterminous with the Downtown Overlay (Section 656.361.12).
2. All beverages (including alcoholic beverages) and food must be prepared inside the main structure on the premises of the café, restaurant, or bar (excluding the sidewalk area), and all food and beverages must be served from within the main structure on the premises of the café, restaurant, or bar.
3. Bar owners shall, in addition to all other requirements of law, take responsible steps to ensure that alcoholic beverages are consumed only by patrons of the bar who are of legal age and not by passersby or persons who are not of legal age or who are obviously intoxicated. Patrons of the bar shall not be allowed to leave the bar or sidewalk café area while drinking alcoholic beverages. Reasonable steps shall include the use of moveable barriers, such as moveable planters or fences to define the permitted area, supervision of the outside area by security or staff personnel, and/or surveillance by electronic monitors. Failure by the bar owner to take such reasonable steps and use them at all times that alcoholic beverages are consumed in the sidewalk café area is grounds for termination of the sidewalk café permit and shall not be deemed an adverse action against the issuance of any future sidewalk café permit.
4. Cafes or restaurants shall, on an annual-calendar-year basis, derive not less than 51% of their gross income from the sale of food and nonalcoholic beverages prepared, sold and consumed on the premises and sidewalk area.

5. Cafés or restaurants shall be open for the sale and purchase of prepared food at any time alcoholic beverages are available for sale and purchase.
6. Bar, café and/or restaurant owners shall comply at all times with the Downtown Property Maintenance Code.
7. The area to be considered must have sidewalks or alleyways which are 12 feet in width or greater. This condition can be reduced if such reduction will not have a detrimental impact on the public health, safety or welfare nor impede pedestrian travel along the sidewalk or alleyway, as determined by DIA.
8. Downtown sidewalk cafes or bars proposed for areas which have a high density of pedestrian usage will be located such that there is a clear pedestrian passageway of at least 6 feet; otherwise, 4 feet of clear pedestrian passageway will be required. This condition can be reduced if such reduction will not have a detrimental impact on the public health, safety or welfare nor impede pedestrian travel along the sidewalk or alleyway, as determined by DIA.
9. The proposed location shall be approved by DIA.
10. DIA may require the downtown sidewalk cafe or bar area to be separated from the designated pedestrian passageway by barrier, such as a planter, decorative wall or fencing surrounding the perimeter. If required, the height of the barrier, decorative wall or fencing shall be at least 3 feet. If a hole in the sidewalk is used for the barrier, it shall be capped when the barrier is not in place. The barrier, fence or wall shall be of material and design in keeping with the character of the neighborhood.
11. No obstruction shall be placed within 18 inches of the face of any curb, within 5 feet of any fire hydrant, fire exit, or building entry, nor within 10 feet of any bus stop.
12. No additional signage shall be permitted on the sidewalk.
13. Non-amplified presentation of entertainment shall be permitted in the outdoor eating and drinking areas.
14. The use of public sidewalks for cafe or bar service shall not be permitted when it has been determined that:
 - (i) The number of pedestrians using the public sidewalk is too great to allow any obstruction;
 - (ii) The sidewalk is being used to store or prepare food/beverage for serving patrons in the downtown sidewalk cafe, bar or main seating area of the restaurant. It is intended that the downtown sidewalk cafe or bar area be used solely to serve patrons with food/beverage stored/prepared in the adjacent cafe/bar/restaurant.
 - (iii) The obstruction of the public sidewalk or alleyway for cafe or bar use may in any other way endanger the health, safety or welfare of the public, or be detrimental to surrounding property values by reason of such factors as noise, litter, lighting, security, outside cooking (odors, smoke), hours of operation, nuisance, etc.

Denial, Revocation or Suspension of Permit

Chapter 250 (Miscellaneous Business Regulations), Part 8 (Downtown Sidewalk Cafes)

1. The DIA may deny, revoke, or suspend the permit for any downtown sidewalk cafe or bar authorized in the City if it is found:
 - (a) That the provisions of the Code have been violated.
 - (b) Any necessary health or other regulatory permit has been suspended, revoked, or canceled.
 - (c) The permittee does not have insurance which is correct and effective in the minimum amount prescribed above in Section 250.807.
 - (d) A "community event" requires the suspension.
 - (e) The City needs to do utility work street repairs or sidewalk closure for other repairs.
 - (f) Failure to document to the reasonable satisfaction of the DIA compliance with the 51% sales from food and nonalcoholic beverages criteria established in the definition of "cafe or restaurant".
 - (g) The permittee operates the sidewalk cafe or bar when such permit has been suspended.

2. Upon denial or revocation, the DIA shall give notice of such action to the applicant or permittee in writing stating the action which has been taken and the reason therefor. If the action of the DIA is based upon (1)(b), (c) or (d) shown above, the action shall be effective upon giving such notice to the permittee; otherwise, such notice shall become effective within 10 days of notice unless appealed to the CEO of the DIA (or their designee) by filing a written notice of appeal within 10 days or receipt of the notice of denial or revocation. Any revocation effective immediately may also be appealed to the CEO of the DIA (or their designee) within 10 days. Appeals shall state the reasons for reinstatement or issuance of the permit. The DIA CEO (or their designee) shall review the appeal and provide written notice of their decision to the applicant/permittee within 10 business days of the receipt of such appeal. During the course of any appeal, any permit which has been revoked shall be automatically suspended until such appeal is resolved.

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EXHIBIT A

PERMIT APPLICATION FOR A DOWNTOWN SIDEWALK CAFÉ OR BAR

Downtown Sidewalk Cafe

Downtown Sidewalk Bar

1. Applicant's Name: _____

2. Applicant's Mailing Address: _____

3. Applicant's Contact Phone Number: _____

4. Applicant's Email Address: _____

5. Address of Sidewalk Café/Bar: _____

6. Legal Description of Property: _____

6. Description of Service/Item Sold: _____

7. Days & Hours of Operation: _____

Additional Requirements – please provide with application.

- Copy of Applicant's current business license and/or valid liquor license (if applicable).
- Drawing showing the width of the applicant's existing café, bar or restaurant facing the sidewalk area requested to be used, location of doorways, width of sidewalk, distance from curb to building face, if different, location of trees, parking meters, bus shelter, sidewalk benches, trash receptacles, or any other semi-permanent sidewalk obstruction(s).
- Drawing (which shall be binding) showing the area requested for use as a downtown sidewalk café or bar with the table locations together with the area which will be occupied by the table and accompanying chairs, location and size of any required features used to delineate the area such as portable planters, etc. and visually depicting the reasonable steps proposed by the applicant to comply with the necessary patron control requirements.
- Annual permit fee for operating a Downtown sidewalk café or bar is \$250. The fee shall be made payable to the Duval County Tax Collector and shall be collected by the Downtown Investment Authority (DIA) in conjunction with the application package.
- Certificate of Insurance (Sec. 250.807. Liability and Insurance) – applicant shall provide certificates evidencing the following insurance to the DIA (which insurance certificates shall

name the City and DIA as additional insured on all policies, and the DIA shall review and secure the approval of same by City's Risk Management Division):

- General Liability:
 - Premises Operations, \$1,000,000 per occurrence, \$1,000,000 aggregate
 - Medical Payments coverage, \$5,000
 - Blanket X, C, U Hazards
 - Products/Completed Operations
 - Contractual Liability
 - Independent Contractors
 - (30-day cancellation notice)
- Liquor Liability (if applicable): \$1,000,000
- Workers' Compensation:
 - Florida Statutory coverage and Employee's liability (including appropriate Federal Acts)
 - (30-day cancellation notice).

Signed City of Jacksonville Release of Liability and Indemnification (Exhibit B).

Note: Additional information (including other permits or approval by other governmental agencies) may be needed by the DIA to evaluate the compatibility of the proposed use of the sidewalk with the City's pedestrian and other uses of the sidewalk.

Conditions of the Permit:

1. Each permit issued, or renewal thereof, shall be for a period of one year from date of approval.
2. The permit issued shall be personal to the permittee only and is not transferable in any manner.
3. The permit may be temporarily suspended by DIA when it determines that an event is scheduled which merits community event status due to pedestrian needs for the sidewalk area under a cafe/bar permit.
4. The permit is specifically limited in the area shown on the drawing submitted in the application which is attached or made part of the permit.
5. The permittee shall assure that its use of the sidewalk in no way interferes with sidewalk users or limits their free and unobstructed passage, by provision of planters, walls, fences or other similar measures.
6. The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition; and at such times that the permittee is not utilizing the sidewalk as authorized, all things shall be removed therefrom. At least two trash containers shall be provided on site for use by the cafe/bar patrons and employees.
7. The permittee shall promptly notify the DIA when operation of the downtown sidewalk cafe or bar initially begins and provide a schedule of operating days and hours.
8. The permittee and property owner shall, in consideration for the privilege of utilizing public property, execute:
 - (a) A covenant not to sue, (in a form approved by the Office of General Counsel) wherein such parties agree to forego any claim against the City based upon a temporary or permanent denial of the right to continued use of public property arising from a

suspension or revocation of such use due to negligent operation and City needs for the public property (e.g. street widening; sidewalk closure for repairs, placement or repair of utility lines; suspension for community event, etc.); and

- (b) An indemnity agreement in favor of the City of Jacksonville (in a form approved by the Office of General Counsel).
- 9. The permittee shall at all times comply with the requirements of the Downtown Property Maintenance Code.
- 10. In the event of foul weather including winds, all chairs, umbrellas, food, table accessories, trash or other debris shall be secured so as to not create any risk to public safety, including in adjacent streets or water bodies. Tables and railing/planter components shall also be secured. All table accessories and food items shall be removed during hours of non-operation and stored within the cafe/bar/restaurant and all tables, chairs, etc., shall be secured.
- 11. Any and all food and beverage spills shall be promptly cleaned up. All trash and debris within and around the outdoor dining area shall be picked up immediately and not allowed to collect, litter or blow into the public right-of-way.

Authorization and Submittal

I have read the Downtown Sidewalk Café/Bar Rules and Regulations and understand all of the requirements to operate as a Downtown Sidewalk Café or Sidewalk Bar. This application is made under the penalties of Section 837.06, Florida Statutes, and the provisions of Chapter 250, Municipal Code. Providing false or misleading information within the application is grounds for suspension or revocation of the permit. For additional information, please refer to City Ordinance 2011-443-E and 2007-107-E – Chapter 250 (Miscellaneous Business Regulations), Part 8 (Downtown Sidewalk Cafes).

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|-----------------------|------|
| Applicant's Signature | Date |
|-----------------------|------|

FOR DIA USE ONLY

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|-----------------------------|------|
| Date Permit Approved | |
| Date Permit Expires | |
| DIA Signature | Date |

Please submit your application packet to:

Van Christiansen, Redevelopment
 Coordinator Downtown Investment Authority
 117 West Duval Street, Suite 310
 Jacksonville, FL 32202
VChristiansen@coj.net / 904-255-5307

EXHIBIT B

CITY OF JACKSONVILLE RELEASE OF LIABILITY AND INDEMNIFICATION

For being permitted to operate a sidewalk café or bar pursuant to Part 8, Chapter 250 Ordinance Code of the City of Jacksonville (the “City”) on City sidewalks (the “Property”) and other valuable consideration, the sufficiency of which is hereby acknowledged, the undersigned:

Covenants not to sue the City, its officers, employees, agents or representatives, for any and all claims, damages, penalties, costs and expenses based upon, relating to or caused by a temporary or permanent denial of the right to continued use of public property arising from a suspension or revocation of such use due to negligent operation and City needs for the public property (e.g. street widening, sidewalk closure for repairs, placement or repair of utility lines; suspension for community event, etc.).

Indemnifies, defends and holds harmless the City, its officers, employees, agents and representatives, against any claim, action, loss, damage, injury, liability, cost or expense of every kind or nature including property damage, personal injury and death to any person(s) arising out of or incidental to any intentional or negligent act or omission of the undersigned in connection with access to the Property.

Releases, waives and discharges the City, its officers, employees, agents and representatives, from any and all liability to the undersigned and from any and all claims, losses or damages of every kind or nature including, but not limited to, property damage, personal injury and death arising out of or incidental to the undersigned's access to the Property. The release, waiver and discharge apply also to the undersigned’s heirs, assigns and legal representatives.

Agrees that the provisions of this consent, release of liability and indemnification are severable, and if any provision, or the application thereof, is held to be invalid or unenforceable by a competent court with jurisdiction, the remainder of the provisions shall not be affected.

Agrees that access to the Property is completely voluntary and that the undersigned is under no obligation to participate and that he/she is giving up substantial rights by signing and signs voluntarily.

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|---------------------------------|---|
| <u>Café/Bar Premises Owner:</u> | <u>Permittee (if different from Owner):</u> |
| _____ | _____ |
| <u>By:</u> | <u>By:</u> |
| _____ | _____ |
| <u>Print Name:</u> | <u>Print Name:</u> |
| _____ | _____ |
| <u>Date:</u> | <u>Date:</u> |
| _____ | _____ |
| <u>Company:</u> | <u>Company:</u> |
| _____ | _____ |
| <u>Mailing address:</u> | <u>Mailing address:</u> |
| _____ | _____ |