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## Outdoor Retail and Restaurant Operations (Covid-19 Temporary Policy) Public Sidewalk Permit Application

### *Introduction*

In conjunction with Governor Mills' Restarting Maine's Economy, which outlines the gradual stages of reopening, the City of Saco is committed to assisting our business community by facilitating the effective but cautious reopening of restaurants, retail establishments, and other commercial activity, scheduled for June 1, 2020 as allowed by the State. This policy is intended to allow restaurants and retailers in Saco to expand their operations outdoors during the Covid-19 pandemic and will remain in effect through November 1, 2020.

### *Requirements*

- The area occupied shall be that portion of abutting public property which least infringes on public use, passage, and traffic as determined by, and at the complete discretion of, the City of Saco.
- Businesses must follow all items required as part of the State's applicable COVID19 Prevention Checklist in order to safeguard public health and continue to mitigate the spread of COVID-19.
- If an establishment already has its own adjacent side and/or rear areas, it is strongly encouraged to fully utilize them by placing its outside areas within those locations and minimize any use of public sidewalks.
- Businesses may be permitted to expand onto the sidewalk in front of adjacent establishments provided sufficient documentation of an agreement with the property owner is provided.
- Consumer-grade extension cords cannot be used to deliver electricity to an outside area; establishments wishing to extend electricity to an outside area are strongly recommended to consult with a qualified electrician.
- A permit, if granted, shall expire on November 1, 2020.
- All temporary outdoor areas shall be under the responsible direction and control of the restaurant or retail operation as identified in this application.
- All temporary outdoor areas must be as continuous as possible by locating the outdoor area in a single portion of an establishment's frontage; it may be located adjacent to the building or near the curb.
- A temporary outdoor area may not extend in front of an adjoining establishment without written permission from the neighboring property owner.
- Temporary outdoor areas that encroach into a public walkway must maintain at a safe path at all times of at least 3 feet in width, to allow for unimpeded, unobstructed pedestrian traffic.

- Building entrances, accessible parking spaces, firetruck access, dumpster access, and any furniture or fixtures related to outdoor areas must remain completely unobstructed.
- All improvements (i.e., furniture, fixtures) used in the outdoor area must be temporary in nature and there shall be no penetration of public walkway surfaces.
- The establishment must comply with all applicable city, state, and federal laws and regulations, including the Americans with Disability Act.

### *Enforcement*

The rights and duties granted herein shall be under the supervision and control of the City of Saco's Code Enforcement Department and Police Department. In the event that the City, in its sole discretion, determines that further use of the premises under this permit is not in the best interests of the City, the rights granted herein may be suspended or terminated at any time.

### *Insurance and Liability*

- The establishment understands and expressly assumes all the risk of operating and conducting business under this permit.
- As a condition of being granted this permit, during the term of this permit, the permittee shall defend, indemnify, save and hold the City of Saco, and its inhabitants, officers, employees and agents completely harmless from and against any and all liabilities, losses, suits, claims, costs, expenses, judgments, fines or demands arising by reason of injury to or death of, or asserted by, any person or persons, including the permittee's agents, clients, invitees or employees, or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney's fees, court costs, and expert witness fees), of any nature whatsoever arising out of or incident to this permit and/or the use, occupancy, conduct, or management of the demised premises or the acts or omissions of the permittee's officers, clients, agents, employees, contractors, subcontractors, licensees, or invitees, except to the extent such injury, death, or damage is caused by the negligent acts or omissions of the City, its agents, employees, clients or invitees. The permittee shall give to the City reasonable notice of any such claim or actions. The permittee shall also use counsel reasonably acceptable to the City in carrying out its obligations under this article.

The permittee further expressly agrees that it will defend, indemnify, save and hold the City of Saco harmless from any and all claims made or asserted by the permittee's agents, servants or employees arising out of the permittee's activities under this permit. For this purpose, the permittee hereby expressly waives any and all immunity it may have under Maine's Workers Compensation Act in regard to such claims made or asserted against the City by the permittee's agents or employees. For this purpose, the permittee further expressly waives any charitable immunity it may have under applicable law as to any and all claims of any person made or asserted against the City arising out of the permittee's use and occupancy of the demised premises or other activity of the permittee under this Permit.

The indemnification provided under this section shall extend to and include any and all costs incurred by the City to answer, investigate, defend and settle all such claims, including but not limited to the City's costs for attorney's fees, expert and other witness fees, the cost of investigators, and payment in full of any and all judgments rendered in favor of the permittee's agents, invitees,

licensees, clients, servants or employees against the City in regard to claims made or asserted by such persons.

In exercising the rights granted under this permit, the permittee shall at all times be regarded as an independent entity conducting its own business and operations and shall not at any time act, or purport to act as an agent, contractor, co-partner, joint venture or employee of the City.

- The permittee, during the entire term of this permit shall maintain, at its sole expense, insurance in the type and amount shown below with companies authorized to do business in the State of Maine for the protection of the City of Saco against any and all liability, including wrongful death, against all claims, losses, costs or expenses arising out of injuries to persons whether or not employed by the permittee or damage to property whether resulting from acts, omissions, negligence or otherwise of the permittee, its directors, officers, clients, employees and agents and arising from the permittee's use of the demised premises or any part or portion thereof: 1) commercial general liability insurance with a minimum limit of \$1,000,000 combined single limit per occurrence and \$2,000,000 in the aggregate; and 2) workers compensation and employers liability insurance with a minimum limit of \$500,000 per occurrence.

The permittee shall cause to be furnished to the City, at the time of execution of this permit, evidence in the form of certificates of insurance of the existence in force of the insurance required hereunder. Said certificates shall name the City as an additional insured and loss payee. The permittee shall cause to be furnished to the City replacement certificates of insurance whenever the insurance policies are renewed. The City shall be notified prior to any changes or discontinuances of coverage.

The City agrees to promptly notify the permittee in writing of the existence or filing of any claim, demand or action arising out of an occurrence covered hereunder of which the City has knowledge, and to cooperate with the permittee in the investigation and defense thereof.

The minimum insurance coverage required under this article shall be deemed to be automatically adjusted whenever the Maine State Legislature shall increase the City's maximum liability beyond such minimums for personal injury, wrongful death or property damage claims brought under the Maine Tort Claims Act. In the event of such an increase, the minimum insurance coverage required shall be no less than the amounts required herein or no less than the City's maximum liability for such claims under the Maine Tort Claims Act, whichever is greater.

***Applicant Information***

Legal Name: \_\_\_\_\_

DBA Name: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

***Outdoor Area Sketch Plan***

Attach a sketch plan for your outdoor area. Your sketch must include the following:

- Existing dimensions/boundaries of your business.
- Dimensions/boundaries of the sidewalk area you wish to occupy.
- Arrangement of tables and other structures (in compliance with the state’s Covid-19 restrictions).
- Additional outdoor areas being used or requested by your business, such as parking areas, patio, or open space (including dimension/boundaries and the arrangement of tables and other structures).

***Permissions from Abutting Properties***

If your plan includes extending onto the sidewalk in front of adjacent establishments, attach documentation of your agreement with any/all applicable property owners.

I/We fully understand that the City of Saco, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment’s occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Saco, its agents, officers or employees) arising out of the establishment’s occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Saco, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney’s fees, arising out of the establishment’s occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_