

Temporary Restaurant License and Permit Agreement for Outdoor Seating

THIS AGREEMENT is made this _____ day of _____, 20____, between the CITY OF GAITHERSBURG, MARYLAND, a municipal corporation (“City”) and _____, a Maryland corporation (“Licensee”).

WITNESSETH

WHEREAS, Licensee is a tenant in certain real property having an address of _____ and being known as _____ (“Restaurant”) and more particularly described in a deed, dated _____, and recorded among the Land Records of Montgomery County, Maryland in Liber _____ at Folio _____ (the Licensee’s Business Premises”); and

WHEREAS, on March 5, 2020 the Governor of the State of Maryland issued a proclamation declaring a State of Emergency and Catastrophic Health Emergency (“State of Emergency”) based on the COVID-19 coronavirus pandemic (“COVID-19”) which has led to further ongoing state, County Health Officer and City orders and requirements for social distancing and restricting occupancy levels at a percentage of Fire Marshall occupancy limits for fire (“COVID-19 Restrictions”);

WHEREAS, Licensee desires permission from the City of Gaithersburg to temporarily maintain outdoor seating and operations and/or operate an outdoor café area (“Outdoor Operations”) related to the Restaurant in sidewalk and parking areas owned by the City which are adjacent to the Licensee’s Business Premises as specified in the Plan for Outdoor Seating, attached hereto as Exhibit A and incorporated herein; and

WHEREAS, Licensee also desires a permit from the City of Gaithersburg to allow Licensee to temporarily maintain Outdoor Operations in sidewalk and parking areas not owned by the City (“Private Permission”), including parking lots which are adjacent to the Licensee’s Business Premises; and

WHEREAS, Licensee has received Private Permission for the temporary Outdoor Operations of any sidewalk or parking areas specified in Exhibit A not owned by the City, which property owner permission is attached hereto as Exhibit B and incorporated herein; and

WHEREAS, City is based on the State of Emergency and COVID-19 Restrictions willing to grant a temporary revocable license and permit to Licensee to address the COVID-19 Restrictions on the operation of their Restaurant, for said purposes on the terms contained herein; and

WHEREAS, any operation of Outdoor Operations by Licensee shall be subject to and conditioned on any applicable restrictions or requirements imposed by owners of

land within the License and Permit Area which is not owned by the City or any county, state or federal law, including but not limited to the Governor of the State of Maryland, County Health Officer, Health Department and /or License Board; and

NOW, THEREFORE, for and in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. The foregoing recitals are incorporated herein.
2. City hereby grants Licensee, subject to the conditions contained herein, a revocable license and permit to temporarily maintain Outdoor Operations in the sidewalk, parking lot or parking area (hereinafter the “License and Permit Area”) as depicted on Exhibit A.
3. The City’s permission for Licensee to conduct Outdoor Operations on License and Permit Areas not owned by the City are conditioned on and subject to the Licensee’s Private Permission to conduct such Outdoor Operations on the terms of this Agreement and shall to the extent of such License and Permit Areas not owned by the City be terminated to the extent Licensee’s Private Permission expires, is revoked, or otherwise terminates. The City’s permission for Licensee to conduct Outdoor Operations on License and Permit Areas owned by the City may in that instance separately continue under the terms of this Agreement, subject to a revision of Exhibit A to reflect the revised License and Permit Areas prior to any applicable termination date or extended term.
4. Licensee certifies that the Outdoor Operations in the License and Permit Area will not interfere with the operations of any nearby business operation or residence which may be depending on the License and Permit Area for parking or other outdoor activities, and acknowledges that upon complaint to the City, to which Licensee must respond after being notified by the City within forty-eight (48) hours after such notice, the City has the authority without prior notice to revoke this Agreement or revise the License and Permit Area in an attempt to address any future complaint related to interference with the operations of nearby business owners or residences.
5. This Agreement shall be subject to and conditioned on any applicable county, state or federal law, including but not limited to the County Health Officer, Health Department and /or Board of License Commissioners.
6. Unless or to the extent otherwise terminated or revoked as specified herein, this Agreement shall be in effect until September 30, 2020 (“Termination Date”), subject to renewal and an extended term of thirty (30) days upon City approval of a Licensee request to the City which is made by email request to city@gaitHERSBURGMD.GOV specifying the address and date of the Agreement no later than five (5) days before that Termination Date or any successive Termination Date following extended terms (“Renewal Request”).

7. The City shall grant or deny the Licensee's Renewal Request within two (2) days of the applicable or extended-term Termination Date.
8. Licensee represents to City that Licensee as specified in Exhibit B has property owner permission to use any License and Permit Area not owned by the City for Outdoor Operations under the terms of this Agreement, a copy of which the City has received as part of the permitting and approval process.
9. Licensee represents that the area within the License and Permit Area will consist of removable stands, tables, chairs and any canopies attached to the ground and/or the tables or chairs which are to be used for Restaurant patron seating as shown on Exhibit A and will be maintained in compliance with all applicable city, state and federal laws, ordinances and regulations
10. In consideration of the foregoing license and permit, the Licensee agrees as follows:
 - A. Licensee will indemnify, defend and hold the City harmless from any claims and liability resulting from the Licensee's maintenance of any improvements in the License and Permit Area, any use or activities occurring within the License and Permit Area, and any claims for personal injury or property damage arising out of the construction, use and maintenance of the improvements within the License and Permit Area, and use and activities within the License and Permit Area. Licensee during the term of this license Agreement shall maintain personal injury and property damage insurance on the License and Permit Area that names City as an additional insured.
 - B. Licensee will, at its sole cost and expense, repair and maintain the improvements in good condition and maintain the License and Permit Area in a clean condition while this Agreement is in effect and shall return the License and Permit Area in the original condition as required by the City. Further Licensee agrees to remove the improvements from any City-owned property within the License and Permit Area, at its sole cost and expense, upon demand by City, Termination Date or other termination or revocation of the Agreement and permission granted hereunder. Licensee may, from time to time, petition for the abandonment of the License and Permit Area and in event such abandonment is approved, Licensee will be required to remove the improvements and any furniture upon the termination of this Agreement, unless City consents in writing to retention of the improvements in the City-owned areas of the License and Permit Area.

- C. This Agreement will be binding upon the Licensee and its successors and assigns. This Agreement may not be assigned without prior written consent of the City of Gaithersburg.
- D. This Agreement may be revoked by City without prior notice, at any time and in its sole discretion.

11. City acknowledges that no further approvals by the City for the Outdoor Operations is necessary beyond this Agreement and associated City Permit. Licensee agrees to operate the License Area in conformance with all laws, ordinances and regulations of the City of Gaithersburg and any governmental agency having jurisdiction over the License Area or Building of Licensee.

IN WITNESS WHEREOF, the parties have executed this License Agreement on the day and year written above.

ATTEST:

CITY:
City of Gaithersburg, Maryland,
a Municipal Corporation

WITNESS

By: _____
Dennis Enslinger, Acting City
Manager

LICENSEE:
_____,
A Maryland Corporation

WITNESS

By: _____
_____ of Corporation

STATE OF MARYLAND
COUNTY OF MONTGOMERY

I, _____, a Notary Public in and for the aforesaid State and County, do hereby certify that DENNIS ENSLINGER who is known to me as the party to and who executed the foregoing, personally appeared before me in said State and County and acknowledge the same to be his/her act and deed.

WITNESS my hand and official seal this _____ day of _____,
20__.

Notary Public

STATE OF MARYLAND
COUNTY OF MONTGOMERY

I, _____, a Notary Public in and for the aforesaid State and County, do hereby certify that _____ who is known to me as the party to and who executed the foregoing, personally appeared before me in said State and County and acknowledge the same to be his/her act and deed.

WITNESS my hand and official seal this _____ day of _____,
20__.

Notary Public