

**AGREEMENT FOR TEMPORARY USE OF
THE PUBLIC SIDEWALK FOR A SIDEWALK CAFÉ**

This agreement is entered into this _____ day of _____, 20____, by and between the Town of New Carlisle, Indiana by and through the Town of New Carlisle Council (hereinafter, “Town”) and _____,(herinafter, “Permittee”).

WHEREAS, Permittee has made application to the Town for a permit to use a portion of the public sidewalk in front of Permittee’s business at _____, for a sidewalk café; and

WHEREAS, the Sidewalk Café Permit Agreement and Application is established to help promote the downtown area of New Carlisle and is not limited to only beverage and food sales, but also to the sale of retail wares, without creating a health and safety hazard or inconveniencing pedestrians.

WHEREAS, the site for the proposed sidewalk café has been reviewed by the Town’s Code Enforcement Officer, and it has been determined that allowing Permittee to utilize a portion of the public sidewalk at that location will not interfere with pedestrian traffic along the sidewalk; and

WHEREAS, the Code Enforcement Officer has reviewed Petitioner’s application, along with drawings, descriptions, and or information sufficient to enable the Town to determine that the proposed sidewalk café will be in compliance with the Town of New Carlisle Town Zoning Code for that area, and said Town has approved the design of the proposed sidewalk café; and

WHEREAS, the Code Enforcement Officer has determined that operation of a sidewalk café at the location proposed will not be detrimental to the health, safety, or general welfare of the public or in violation of the Americans with Disabilities Act of 1990, as amended (“ADA”).

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by the parties hereto as follows:

- 1) Pursuant to applicable Town of New Carlisle Zoning Code 152.116 (C) 12. (a), 152.117 (C) 11. (a) or 152.118 (C) 11. (a) the Town hereby grants Permittee a permit to use a portion of the public sidewalk described as follows:

(describe or attach drawing) _____

- 2) The permit herein is for the sole purpose of permitting the temporary use of a portion of the public sidewalk for the operation of a sidewalk café in front of:

(business name or address, and business hours of sidewalk café operation)

- 3) Registrations need to be filed no later than November 1st for renewal for the next year. The permit shall then be issued on or after January 1st, of a particular year and shall be valid until December 31st of that year.
- 4) The permit granted herein shall be for the use of only the area described above, which area is located in front of Permittee's business establishment. Nothing contained herein shall permit Permittee to operate a sidewalk café in front of any other business other than Permittee's.
- 5) Permittee shall pay a fee to the Town for the permit granted herein as required by Town of New Carlisle Town Code Chapter 98: Fee Schedule.
- 6) Permittee shall limit the operation of the sidewalk café to the area described above, and the sidewalk café shall be marked by a fence or other structure that is authentic and complies with the architecture in the adjoining area as much as possible. The fence, and any gate, shall separate the sidewalk café from the remaining sidewalk area, while complying with Town of New Carlisle Zoning Code and current ADA standards. Any fencing or other structure used to define the café area shall be removed by the permit expiration date unless the permit is renewed.
- 7) Seating, tables and fences shall be allowed to remain during the winter months, with a valid permit, conditioned upon the timely removal of snow from the sidewalk café area as required by the Town of New Carlisle Town Code Chapter 92.01 (Snow Removal Ordinance). Permittee also agrees to keep seating, tables, and the like free of snow, and agrees not to hinder snow removal operations by the property owner or Town.
- 8) Permittee has received approval of the Code Enforcement Officer for the furniture, the perimeter barrier, and other items to be used in the operation of the sidewalk café, including the design and placement of such items. Permittee shall not change or vary such items in their design or placement.
- 9) Permittee agrees to maintain the area encompassed in this Agreement and adjoining public sidewalk area in a clean and sanitary condition, free from litter and debris generated by the use of the sidewalk café area for restaurant purposes.

- 10) Permittee shall provide and maintain adequate trash receptacles and pick up litter in the sidewalk café area and in the area twenty (20) feet from the perimeter of the sidewalk café area, to assure the sidewalk will not be littered.
- 11) Permittee shall indemnify, defend and hold harmless the Town for losses, damages, claims, expenses, liability and attorneys' fees arising out of the use of the sidewalk sales area for sidewalk café activity.
- 12) Permittee shall not sell beverages or food by crying out or hawking, and pedestrians shall not be exposed to any undue safety or health hazard nor shall a public nuisance be created.
- 13) Sales of beverages and food may not be made to a person in or on any motorized vehicle, and beverages or food sold in a sidewalk café area shall be provided only for consumption in the sidewalk café area or in the abutting retail business property.
- 14) The Permittee shall provide a certificate of public liability insurance to the Town of New Carlisle insuring the person and naming the Town of New Carlisle as co-insured.
- 15) Should Permittee fail to comply with any of the terms or conditions of this Agreement, the Town and or its Code Enforcement Officer, may issue code violations and/or revoke the permit to utilize the public sidewalks as a sidewalk café.
- 16) The rights herein may not be assigned by Permittee.
- 17) ***Notification of approval/denial of this request will be issued by the return of this form, upon signed authorization by the Town of New Carlisle Council and or Code Enforcement Officer.***

IN WITNESS WHEREOF, this Agreement was executed on the date written above.

Date: _____

Permittee's
Signature: _____

Name: _____

Title: _____

Return completed form to the Town of New Carlisle Clerk's Office

Office Use Only

____Approved

____Denied, Please see attached

Code Enforcement Officer

Town of New Carlisle Council

Date returned to Permittee _____