

# OPEN SIDEWALK CAFÉ PERMIT APPLICATION

APPLICANT'S NAME: \_\_\_\_\_

APPLICANT'S ADDRESS: \_\_\_\_\_

APPLICANT'S PHONE #: \_\_\_\_\_

NAME OF RESTAURANT/TAVERN/SIDEWALK CAFÉ: \_\_\_\_\_

OWNER OF RESTAURANT/TAVERN/SIDEWALK CAFÉ: \_\_\_\_\_

RELATIONSHIP OF APPLICANT TO OWNER: \_\_\_\_\_

ADDRESS OF RESTAURANT/TAVERN/SIDEWALK CAFÉ: \_\_\_\_\_

PHONE # OF RESTAURANT/TAVERN/SIDEWALK CAFÉ: \_\_\_\_\_

The permit holder shall adhere to all of the conditions listed in Article II – Sidewalk Obstructions, Sections 223.13, titled Floral displays, open sidewalk cafes and sidewalk sales and displays, in the Code of the Borough of Carlisle. This permit is valid for one year from the date of issuance.

Applicant will indemnify the Borough, its elected officials, appointees, employees and servants, from all claims, demands and damages for injuries to person or property arising from or in any manner connected with the operation of a sidewalk café, and from any and all other claims, demands, liens, damages, fines or penalties of whatever name, nature or kind, in any way or manner chargeable to or payable for, or in respect to the applicant's use, occupancy, or activities of, upon or from the sidewalk café, or from any act or omission of the applicant, its directors, officers, employees, servants, personnel, counselors, independent contractors, agents, volunteers, invitees, licensees, clients, visitors, or customers, except insofar as the negligence of the Borough is the proximate cause of such claims, demands, liens, damages, fines or penalties. Applicant will pay all costs, expenses and attorney's fees incurred by or imposed on the Borough in prosecution of defense of any suit, action or proceeding predicated upon an alleged breach of any undertaking by the applicant under the terms of this permit or for which the applicant has covenanted to indemnify the Borough under the terms of this permit, or as to which the applicant would be bound by law to indemnify the Borough, including all costs, expenses and legal fees incurred in enforcing the obligations of the Applicant under this Application and permit.

Applicant shall bear, pay and discharge, when and as the same become due and payable, all judgments and lawful claims for damages or otherwise against Borough or its property arising from operation of a sidewalk café, or of any of its directors, officers, employees, servants, personnel, counselors, independent contractors, agents, volunteers, invitees, licensees, clients, visitors, or customers upon the premises where the sidewalk café is operated, including injury and damage cause by the operations of the sidewalk café or by fixtures, machinery, apparatus or appliances in or upon the sidewalk café, and will protect, indemnify and save harmless the Borough, its elected officials, appointees, employees and servants by reason of or on account of the use or misuse of the sidewalk café.

The annual fee for issuance of a permit for an open sidewalk café is: **\$30.00**

**The following documentation MUST be submitted along with application:**

\_\_\_\_\_ Copy of your Certificate of Liability Insurance.

\_\_\_\_\_ Drawing, including layout and dimensions of Café' space

\_\_\_\_\_ Signed Indemnity Agreement

\_\_\_\_\_ If applicable, include a written letter from adjoining property owner(s) granting permission to extend the sidewalk café in front of their property, indicating the extent by distance and location where the adjoining property or properties may be utilized as a sidewalk café.

By signing this permit, the Applicant agrees to all of the conditions set forth above and those requirements noted below in the issued permit.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

**OFFICIAL USE ONLY**

Permit # \_\_\_\_\_

Date Issued \_\_\_\_\_

\_\_\_\_\_  
Zoning Officer

Expiration Date \_\_\_\_\_

Revised 3/24/2022

## OPEN SIDEWALK CAFÉ

The utilization of sidewalk space beyond the building line to accommodate the serving of food and drink to patrons of an operating restaurant or tavern fronting on that space, which space does not have permanent walls. It shall consist of tables and chairs set in front of the restaurant or tavern and there shall be some type of nonpermanent partition, which shall separate the open sidewalk cafe from the public portion of the sidewalk.

### B. Open sidewalk cafes.

**(1)** Permit required. Permit required. Open sidewalk cafes shall be permitted when a permit is obtained from the Borough Manager or his or her designee. A request for a permit may be made by the owner or tenant of a building occupied and used as a restaurant or tavern fronting the sidewalk sought to be used as an open sidewalk cafe, and may include, upon written permission of the owner of the property immediately adjoining either or both sides of the building used as a restaurant or tavern, the sidewalk of either or both the immediately adjoining property or properties. Such permit shall be valid for one year and be issued on a calendar-year basis. [Amended 7-12-2007 by Ord. No. 2077, approved 8-8-2007, Amended 7-15-2021 by Ord. No. 2384]

**(2)** Conditions for issuance of permit. A permit for an open sidewalk cafe may be issued only when the following conditions are met:

- (a)** Food preparation. No food preparation shall take place within the open sidewalk cafe.
- (b)** Projection onto the sidewalk. No more than half the sidewalk shall be utilized for an open sidewalk cafe. In no case shall less than four feet of sidewalk be available for pedestrian traffic. [Amended 3-10-2005 by Ord. No. 2032, approved 3-10-2005]
- (c)** The maximum hours of operation shall be from 8:00 am. to 11:00 p.m., prevailing time. [Amended 3-10-2005 by Ord. No. 2032, approved 3-10-2005]
- (d)** Partition standards. The partition separating the open sidewalk cafe from the sidewalk shall not be permanent. It shall be no more than 30 inches in height and appropriate to the facade of the building. No advertisements shall be placed upon it.
- (e)** Insurance and indemnification. Any person requesting a permit shall, prior to issuance thereof, file with the Borough Manager:

**[1]** A certificate evidencing liability insurance in at least the amount of \$50,000/\$100,000, naming such person and the Borough of Carlisle, its officers and employees, as insureds, and covering property damage and personal injury arising out of operation of said open sidewalk cafe, which policy shall be kept in full force during the operation of the open sidewalk cafe.

**[2]** An executed agreement to indemnify and hold harmless the Borough of Carlisle, its officers and employees, from any and all claims, actions, injuries or damages of every kind and description which may accrue to or be suffered by any person by reason of or related to the operation of the open sidewalk cafe.

**(f)** All other applicable ordinances, including but not limited to zoning ordinances, shall be complied with, it not being the intent of this section that a use not authorized by the

Zoning Ordinance<sup>w</sup> of the Borough would become permissible hereby. [1] *Editor's Note: See Ch 255, Zoning.*

(g) All applicable federal and state statutes, rules and regulations shall be complied with.

(h) If the open sidewalk cafe is proposed to extend onto either or both sidewalk areas of the property or properties immediately adjoining the building used as a restaurant or tavern, the written consent of the owner of the adjoining property or properties specifying the area of the sidewalk on the adjoining property that can be used as an open sidewalk cafe shall be included with the permit application.

(3) Compliance with each of the conditions of issuance shall be a continuing obligation of the permit holder.

(4) A permit holder shall maintain the good order and proper conduct of patrons of the open sidewalk cafe.

(5) Litter. Litter emanating from the sidewalk cafe area and from whatever area to which it may flow shall be collected as often as is required to keep the sidewalk as clear of litter as if the open sidewalk cafe did not exist.

(6) Revocation of permit.

(a) Any permit issued shall be limited to a revocable license for the use of a public sidewalk area as specified herein. A permit is understood by any permit holder to exist merely at the pleasure of the Borough Council and may be revoked by the:

[1] Borough Manager or his or her designee for a violation of any provisions of this section; or

[2] Borough Council at any time and without cause.

(b) Revocation may be in addition to penalties imposed by this article in § 223-15.<sup>[2]</sup> [2] *Editor's Note: Original Subsection B(7), Fees, which immediately followed this subsection, was deleted 3-10-2005 by Ord. No. 2032, approved 3-10-2005.*

(7) Alcoholic beverages permitted. The serving and consumption of alcoholic beverages shall be permitted within the confines of an open sidewalk cafe, whether under proper licensure from the Pennsylvania Liquor Control Board or by patrons who bring their own beverages to a premises (BYOB), subject to compliance with all of the provisions of this article and the following specific requirements: [Added 5-12-2005 by Ord. No. 2034, approved 5-12-2005, Amended by Ord. No. 2384, approved 7-15-2021.]

(a) Except within the partitioned area of the open sidewalk cafe, no alcoholic beverages shall be served or consumed in the right-of-way of any street, avenue, way, or sidewalk, nor in any public parking lot, private parking lot held open to public use, public park or other public area.

- (b)** All alcoholic beverages shall be consumed from disposable or non-disposable glassware or other drinking utensil provided by the permit holder. No alcoholic beverage shall be consumed directly from the original bottle or can in which it was obtained from the brewer, distiller or other maker. Patrons from the open sidewalk cafe, except in a sealed or capped container, shall transport no alcoholic beverage.
  
- (c)** Alcoholic beverages may only be consumed on the sidewalks of property or properties immediately adjoining the building used as a restaurant or tavern only when the Pennsylvania Liquor Control Board has extended the licensed premises to include those sidewalk areas on the immediately adjoining property or properties.

**Carlisle Borough**

**Generic Indemnity Agreement**

**(dumpster, sidewalk encroachment, open sidewalk café permits)**

**9/19/17**

For and in consideration of the Borough of Carlisle allowing and permitting for (Applicant to check relevant permit):

\_\_\_ The placement of a construction waste dumpster on the roadway or highway

\_\_\_ The encroachment onto a sidewalk / open sidewalk café

The undersigned property owner, or contractor agrees to indemnify, save harmless and defend the Borough, its elected officials, agents, servants, appointees and employees and each of them against, and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney's fees (and including such court costs and reasonable attorney's fees incurred in enforcing the obligations of this Indemnity Agreement), for or on account of any injury to any person or any death at any time resulting from such injury or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the placement or utilization of the construction waste dumpster, or sidewalk encroachment on the roadway, highway, or public right-of-way, owned and maintained by the Borough.

This Indemnity Agreement shall in no way be limited to any insurance coverage that the contractor or property owner listed below has or may not have.

The undersigned represents and warrants that if signing this Indemnity Agreement, he or she has the authority to execute this Indemnity Agreement.

Print Property Owner Name:

Print Contractor Name:

Signature:

Signature:

Date:

Date:



Please provide address of property, dimensions of sidewalk cafe area, and name of street on the drawing provided below.

