

City of Safety Harbor Application for CAFÉ TABLE RIGHT-OF-WAY USE PERMIT

Date Received:	
File Number:	
Staff Reviewer:	

1. GENERAL

Property Owner Name:	
Applicant Name:	
Business Name:	
Address:	
Telephone:	E-Mail:

2. REQUIRED INFORMATION:

- Copy of Local Business Tax Receipt
- Survey depicting:
 - Building footprint and surrounding right of way (sidewalk, street, etc.)
 - Business frontage dimensions and location
 - Number of tables, including shape, material, and location of proposed café tables and chairs.
 - Proposed size of café tables (diameter for round tables and dimensions of square or rectangular tables).
 - Existing trees, planting areas, or street furniture (lamp post, etc.)
 - Proposed size and location of umbrellas
 - Proposed accessible path width
- Disclaimer form indemnifying the City of Safety Harbor of any liability for use of right-of-way
- Proof of minimum general liability insurance of \$100,000 per person, \$200,000 per occurrence and indicating the City as an additional insured.

3. APPLICATION FEES (Must be paid prior to processing):

Type	Review Fee	Public Notice Fee	Total
CAFÉ TABLE PERMIT	\$25	N/A	\$25

CITY OF SAFETY HARBOR
TEMPORARY CAFÉ TABLE INDEMNITY AND RELEASE AGREEMENT ("AGREEMENT")

WHEREAS, Applicant wishes to place café tables within the City's right-of-way located at _____; and

WHEREAS, the City has permitted Applicant to locate temporary café tables in said right-of-way on the condition that Applicant agrees to indemnify the City; and

WHEREAS, the Applicant is willing to indemnify the City pursuant to the terms of this Agreement.

NOW, THEREFORE, the Applicant agrees as follows:

1. The Applicant agrees to indemnify, hold harmless and defend the City, its elected officials, officers, employees and agents of, from and against all liability and expense, including all attorney's fees and costs, in connection with any and all claims, demands, damages, actions, causes of action and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, loss of use, arising out of, in any way, the City's permitting and the actual placement of café tables within the City's right-of-way by Applicant.

2. **THE APPLICANT ACKNOWLEDGES THAT THIS INDEMNITY AND RELEASE AGREEMENT MAY RELEASE THE CITY FROM CLAIMS OR LIABILITIES ARISING OUT OF THE NEGLIGENCE OF THE CITY.**

3. If any one or more of the provisions of this Indemnity and Release Agreement shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby. This Indemnity and Release Agreement shall not be construed or interpreted in any way against any one party on the basis that that party drafted this Indemnity and Release Agreement.

4. The Applicant acknowledges that it has had a full opportunity to review this Indemnity and Release Agreement and has signed it freely, without any inducement or assurance of any nature, and further agrees that no oral representations, statements, or inducements apart from the foregoing agreement have been made.

Applicant

Dated

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 20____ by _____ of _____, a Florida municipal corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

Notary Signature

NOTARY
STAMP

Name of Notary Typed, Printed or Stamped

The undersigned applicant hereby agrees to operate the café table area described in this application in accordance with the requirements of City of Safety Harbor Ordinance No. 2021-19 (attached). The undersigned certifies the information contained in this application is true and correct. The undersigned understands this application is not transferable and is valid for one year. The undersigned agrees to indemnify the City from liability resulting from application of this ordinance in accordance with the indemnification requirement of Article III, Section 20.21 of the City Code.

Applicant Signature: _____ Date: _____

Attach final ordinance

ORDINANCE NO. 2021-19

AN ORDINANCE OF THE CITY OF SAFETY HARBOR, FLORIDA, AMENDING CHAPTER 20, ARTICLE III, SECTION 20.21 OF THE SAFETY HARBOR CITY CODE TO CLARIFY THAT RIGHT-OF-WAY USE PERMIT CONDITIONS MAY BE IMPOSED BY THE CITY ENGINEER OR CITY MANAGER OR THEIR DESIGNEE AND TO UPDATE CAFÉ TABLE REGULATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Safety Harbor City Code regulates activities within the public right-of-way; and

WHEREAS, the City of Safety Harbor regularly updates its code as needed; and

WHEREAS, the City Commission desires to amend the Safety Harbor City Code to update café table regulations; and

WHEREAS, the City Commission finds that enactment of this Ordinance is consistent with its police powers and will protect the public health, safety, and welfare of the residents of the City, and is consistent with, furthers and implements the purposes, goals, policies, and objectives of the City's enacted Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAFETY HARBOR, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

SECTION 1. The above recitals are true, correct, and incorporated by reference as the findings of the City.

SECTION 2. Chapter 20, Article III, Section 20.21 of the Safety Harbor City Code is hereby amended as follows:

Sec. 20.21. - Right-of-way and easement use permits.

- (a) Permits for paving, grading, or use of any portion of a public right-of-way or easement for any purpose may be granted by the city engineer, when, in his or her discretion, the safety and convenience of the city can be protected. The city engineer or City Manager, or his or her designee, may impose any such conditions upon said permit which are deemed necessary to protect the safety and convenience of the city. ~~Businesses with frontage on Main Street may place cafe tables measuring up to three (3) feet in diameter and chairs without a right-of-way use permit and shall not cause the minimum accessible path to be less than three (3) feet in width.~~
- (b) A café table right-of-way use permit is further required prior to the installation of café tables, chairs, umbrellas, or other items associated with outdoor seating or

dining within any portion of a public right-of-way. Café tables are defined as tables measuring up to three (3) feet in diameter for circular tables and up to nine (9) square feet for square or rectangular tables. Café tables may only be permitted on sidewalks within the public right-of-way for businesses with non-residential uses located within the Community Redevelopment District (CRD) boundary.

- (1) Final permit approval for café table right-of-way use permits shall be required by the Technical Review Committee prior to the installation of café tables on any portion of the public right-of-way.
- (2) Right-of-way permits issued pursuant to this section are valid for a maximum of one (1) year and will be further subject to subsection (c) below.
- (3) One (1) permit may be issued per business to the entity with an approved business tax license for the business. The property owner is required to consent to the permit application. The permit is not transferable.
- c) A café table right-of-way use permit application and a drawing showing the existing building, sidewalk width, proposed layout, spacing and dimensions of proposed tables, chairs, umbrellas, and any other items proposed to be installed in the right-of-way is required and must demonstrate compliance with all code requirements in this article subject to the following:
 - (1) Café tables shall be a maximum of three (3) feet in diameter for circular tables and up to nine (9) square feet for square or rectangular tables.
 - (2) Cafe tables shall be placed in a manner which maintains a minimum accessible path on the sidewalk no less than thirty-six (36) inches wide.
 - (3) A sixty (60) inch by sixty (60) inch passing space shall be provided every two-hundred (200) feet along the right of way if the pedestrian access is less than five (5) feet wide.
 - (4) All garbage shall be cleared from café tables and the right-of-way throughout service hours and at the end of service hours.
 - (5) The permit holder shall be responsible for moving café tables, chairs, and umbrellas upon notification by the city executive responsible for emergency management that there is a public emergency.
 - (6) By applying for such permit, the permit holder agrees to indemnify the city from any and all liability arising out of the use of the right-of-way. The permit holder also must provide the city with proof of a minimum general liability insurance of \$100,000.00 per individual, \$200,000.00 per occurrence in a form satisfactory to the City Manager, and naming the City as an additional insured.
- (d) Businesses with café tables installed prior to December 20, 2021 shall have until April 18, 2022 to comply with the requirements established herein and to apply for and receive permit approval.
- (e) The issuance of a café table right-of-way use permit does not negate the obligation to comply with all other codes, rules, regulation, permits, and/or license requirements, including but not limited to, alcoholic beverage licenses from the State of Florida.
- (f) All such permits shall be clearly marked to indicate that they are revocable at the will of the city, and that their issuance in no way grants to the permittee or his

successors any right to the continued use of such ~~parkway or~~ right-of-way or easement.

(e)(g) If any person undertakes any activity as a result of an emergency within a public right-of-way or easement without a permit as required under this article, a permit shall be obtained within forty-eight (48) hours of the emergency activity. An emergency shall exist if, without undertaking activity in the right-of-way or easement, there is an immediate danger of damage occurring to life or property. If it is determined by the city engineer that no emergency existed at the time of the activity, the city engineer may require removal of any objects placed within the public right-of-way or easement and/or deny the requested permit. Additionally, the person shall be subject to enforcement action as provided for in the Safety Harbor City Code or as otherwise provided for by law.

SECTION 3. This Ordinance shall be codified and made part of the Safety Harbor City Code and all sections shall be alphabetized and/or renumbered to accomplish such codification.

SECTION 4. Each provision of this Ordinance shall be deemed separate and severable and if any section or part thereof is held to be invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

SECTION 5. This Ordinance shall become effective immediately upon its passage and enactment.

PASSED ON FIRST READING _____ DECEMBER 6, 2021.

PASSED ON SECOND AND FINAL READING _____ DECEMBER 20, 2021.



Mayor - Commissioner

APPROVED AS TO FORM:



Nikki C. Day, City Attorney

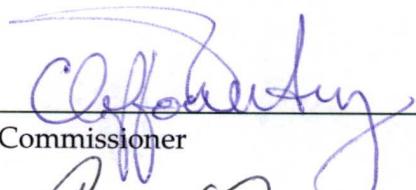


Nancy J. Sison
Vice Mayor - Commissioner

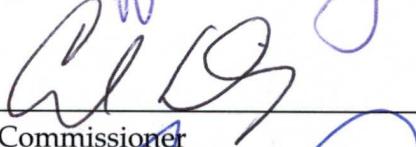
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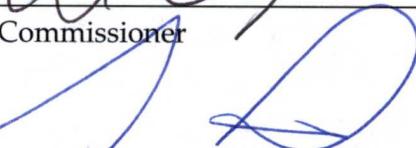
Karen Sammons, CMC, City Clerk



Commissioner



Commissioner



Commissioner