



CURBSIDE TEMPORARY OUTDOOR RESTAURANT AND RETAIL OPERATION PERMIT APPLICATION

1: INTRODUCTION

In accordance with Governor Janet Mills' Rural Reopening Plan of May 8th, 2020, all restaurants and retail operations that provide temporary outdoor areas must adhere to strict mitigation standards intended to prevent the spread of COVID-19. The Town of Bar Harbor is making a temporary use permit available to both restaurants and to retail operations that are located within Bar Harbor. The Initial Open Enrollment for permit applications is from June 3, 2020 through June 10, 2020. All approved Temporary Use Permits issued shall begin at 7:00am on Friday, June 12, 2020, and shall expire at 9:00pm on Friday, October 30, 2020. Additional open enrollment and approval process dates may be scheduled as determined by the Town Manager.

2: REQUIREMENTS

- The area occupied shall be the identified parking spaces abutting or in close proximity, which least infringe on public use, passage, and traffic as determined by, and at the complete discretion of, the Town of Bar Harbor. Approved spaces shall be for pedestrian use only and consistent with the Temporary Use Permit as issued by the Town.
- 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 ways or parking spaces.
- The Permittee shall be responsible for placing traffic barriers and or materials around permitted spaces as approved or required by Town Staff, for increased safety at the expense of the Permittee.
- A restaurant or retail operation may not use more than two parking spaces for its outdoor area. The fee for each permit is \$100.00 per month.
- A retail operation's outdoor area may be used to display merchandise providing that such displays are broken down at the end of each day of operation.
- Moveable items must be under the immediate supervision of the Permittee's staff and secured against wind and theft.
- A restaurant's outdoor area must use non-permanent structures which can be set up and broken down, but they will be allowed to be left in place until the expiration of the permit on October 30th,

2020 at 9:00pm, including overnight and on days when a restaurant is closed.

- No parking spaces within 15 feet of an intersection can be used for a permit area.
- Any platforms in parking spaces must allow water run off to easily flow under the platforms.
- Consumer-grade extension cords cannot be used to deliver electricity to an outside area; establishments wishing to extend any utility to an outside area are required to consult with a qualified professional after receiving approval from the Town.
- No temporary heating sources can be used without prior Fire Department approval.
- A permit, if granted, will only be valid during the hours of 7:00am to 9:00pm each day, Sunday through Saturday, beginning at 7:00am Friday, June 12th, 2020, and shall expire at 9:00pm on Monday, October 30th, 2020. In the event of extreme weather, the permitted area must be vacated upon notice from the town.
- Permittee must occupy permitted space(s) within 7 days of issuance or permit is revoked.
- Each business may only be issued one (1) permit and the Bar Harbor Chamber of Commerce may occupy multiple permitted spaces either on street or in municipal parking lots as approved by Town Staff.
- All temporary outdoor areas shall be under the responsible direction and control of the restaurant or retail operation as identified in this application.
- The use of physical barriers (i.e., fences, barricades, etc.) to visually distinguish the boundary of the outdoor area is required.
- All improvements (i.e., furniture, fixtures) used in the outdoor area must be temporary in nature and there shall be no penetration of public way surfaces.
- The establishment must comply with all applicable city, state, and federal laws and regulations, including the Americans with Disability Act.

3: INSURANCE AND LIABILITY (PLEASE CONSULT WITH YOUR INSURANCE CARRIER REGARDING THE FOLLOWING ITEMS)

- 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 Town of Bar Harbor, 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 attorneys' 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 Town, its agents, employees, clients or invitees. The permittee shall give to the Town reasonable notice of any such claim or actions. The permittee shall also use counsel reasonably acceptable to the Town in carrying out its obligations under this article.

The permittee further expressly agrees that it will defend, indemnify, save and hold the Town of Bar Harbor 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 Town 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 Town 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 Town to answer, investigate, defend and settle all such claims, including but not limited to the Town's costs for attorneys' 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 Town 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, hold itself out or purport to act as an agent, contractor, co-partner, joint venture or employee of the Town.

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 Town of Bar Harbor 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 Town, 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 Town as an additional insured and loss payee. The permittee shall cause to be furnished to the Town replacement certificates of insurance whenever the insurance policies are renewed. The Town shall be notified prior to any changes or discontinuances of coverage.

The Town 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 Town 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 Town'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 Town's maximum liability for

such claims under the Maine Tort Claims Act, whichever is greater.

4: ENFORCEMENT

The rights and duties granted herein shall be under the supervision and control of the Town of Bar Harbor's Code Enforcement Officer and the Town of Bar Harbor's Chief of Police. In the event of a breach of this permit by permittee, the Town may, for the first breach, issue a verbal warning to Permittee; in the event of a second breach, terminate this Permit.

Notwithstanding these provisions regarding penalties for breaches or any other provision of this permit, in the event that the Town, in its sole discretion, determines that further use of the premises under this permit is not in the best interests of the Town, the rights granted herein may be suspended or terminated upon 24 hours written notice to the permittee.

At the end of the term of this permit, or if this permit is suspended or terminated, all fencing, tables, seating, or equipment must be removed from any Town of Bar Harbor public walkway or public area. The Town may move or remove any of said items if they are not removed before the end of the term of this permit or before the 24-hour notice period expires.

5: APPLICATION (ALL RESPONSES ARE REQUIRED):

Legal Name: _____

DBA Name: _____

Business Manager: _____ Phone: _____ Email: _____

Contact Person: _____ Phone: _____ Email: _____
(if not Business Manager)

Physical Address: _____ Bar Harbor, ME 04609

Mailing Address: _____
Street/PO Box City State Zip

Phone: _____ Fax: _____

Name, address, telephone number and email of Property Owner (if property is rented or leased, need a copy of rental agreement / lease): _____

Which hours do you plan to have these additional areas open (no earlier than 7:00am, and no later than 9:00pm)? _____

Check this box to request that the Town continue to wash sidewalks within the permitted area.

On the following page, sketch out your plan for your outdoor area. In your sketch you must include and clearly indicate the relative locations of the following components:

- existing dimensions/boundaries of your business;
- parking spaces, public walkways, and/or adjacent areas that you are looking to utilize; Please indicate contiguous and non-contiguous space you plan to use.
- path(s) through your area(s) that will allow for pedestrian traffic;
- arrangement of tables and other structures which have proper spacing;
- barriers to be used;
- awnings, umbrellas, and/or other rain- and sun-shielding devices to be used (optional)
- lights or lighting systems to be used; and
- reflectors to be used.

For extension of license on premise:

- There must be stanchion or fence completely enclosing the area.
- Signs must be posted, stating “no alcohol beyond this point”
- There must be sufficient employees at the extension of premise, which would be able to control and monitor the area
- Please indicate the parking spaces you plan to use. See the section of Maine’s liquor laws that govern these areas at <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec1051.html>. See section 3 and 9.

Signature of Owner/Corporate Officer

Printed Name of Owner/Corporate Officer

EXTENSION AREA PREMISE DIAGRAMS

In an effort to clearly define your extension please draw a diagram below that will include the area you want for a temporary license premise. Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including methods of monitoring and containment of certain area which you are requesting approval from the Division of liquor consumptions.

6: SUBMISSION OF YOUR COMPLETED APPLICATION

Please submit your completed application with the permit fee of \$100.00 to:

Sharon Linscott
Town Clerk
Town of Bar Harbor
93 Cottage Street
Bar Harbor, ME 04609
clerk@barharbormaine.gov

Approvals Required by:

- Code Enforcement Officer**
- Fire Department**
- Police Department**
- Public Works**

Town Clerk (or designee):

Signature

Date