



Austin Transportation Department

3701 Lake Austin Blvd, Austin, TX 78703
(512) 974-1150, Fax (512) 974-5617

RIGHT OF WAY TEMPORARY SIDEWALK CAFE GUIDELINES AND APPLICATION PACKET

The City permits the use of public sidewalks and/or parking spaces for Temporary Sidewalk Cafes when the adjacent Business meets all requirements. Submit an application to Transportation Department staff at 3701 Lake Austin Blvd, Austin, TX 78703, a minimum of **30 days** in advance. Only businesses with permits are allowed to use public property for the purpose of an establishment seating area. All uses of the City's Right-of-Way must be pre-approved by the City Transportation Right-of-Way Management staff.

PREPARATION

Prior to starting the application process, please read and familiarize yourself with all of the associated application forms/ materials in their entirety. If you have any questions before application submittal, please call (512) 974-1150 to be directed to a permitting staff member.

FEE INFORMATION

The current application fee is **\$100.00** and is non-refundable. Please ensure that your proposed site meets all guidelines prior to making application. Once the application is approved, the applicant must pay the yearly permit fee, or the renewal fee, of **\$200.00 per year for a sidewalk area**, or **\$2,000.00 per year for a metered parking space** for a timeframe not to exceed five years in advance.

BOND REQUIREMENTS

The director has established a requirement that the permit holder provide the City with a cash or surety bond sufficient to cover the cost to the City of a public utility to remove the sidewalk café, if necessary.

- A \$5,000 Bond is required if no bolts are secured in the Right-of-Way.
- A \$10,000 Bond is required if a single bolt per corner is secured in the Right-of-Way.

Both Bond templates can be found within this packet.

\$10,000 bonds with a signature other than the power of attorney (POA must accompany application) require a current resolution of corporate authority for all types of companies.

INSURANCE REQUIREMENTS

- Commercial General Liability policy with a combined single limit of \$500,000 per occurrence for coverage's AB&C including products/completed operations, where appropriate, with a separate aggregate of \$500,000.
- If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this permit and the certificate of insurance shall state that the coverage is claims made and the retroactive date. The applicant shall maintain coverage for the duration of this permit and for six months following completion of this project. The applicant shall provide the City annually with a certificate of insurance as evidence of such insurance. The premium for this extended reporting period shall be paid by the applicant.
- Applicant shall be responsible for deductibles and self-insured retentions, if any, stated in policies. If insurance policies are not written for amounts specified above, the applicant shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- Insurance shall be written by a company licensed to do business in the State of Texas at the time the policy is issued and shall be written by a company with an A. M. Best rating of B+ or better.

The applicant shall produce endorsements to each effected policy:

- Naming the City of Austin, Care of: Right-of-Way, P.O. Box 1088, Austin, TX 78767 as additional insured, **NOT** contingent on a written contract.
- That obligates the insurance company to notify the City of Austin, Care of: Right-of-Way, P.O. Box 1088, Austin, TX 78767, of any non-renewal, cancellations or material changes at least thirty (30) days prior to change or cancellation.
- That the "other" insurance clause shall not apply to the City where the City of Austin is an additional insured shown on the policy. It is intended that policies required in this permit covering both the City and the applicant shall be considered primary coverage.



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INSURANCE REQUIREMENTS CONTINUED

The applicant shall not cause any insurance to be cancelled or allow any insurance to lapse during the term of this permit or the six months following completion for a "claims made" policy.

The City reserves the right to review the insurance requirements of this section during the effective period of this permit and to make reasonable adjustments to insurance coverages, their limits, exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company, as well as the applicant.

All certificates shall include a clause to the effect that the policy shall not be cancelled, reduced, restricted, or limited until thirty (30) days after the City has received written notice.

Applicant shall provide City thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit of coverage.

Actual losses not covered by insurance as required by this permit shall be paid by the applicant.

ADDRESSING THIRTY (30) DAY NOTICE OF CANCELLATION

It seems as though some insurance professionals are under the impression that the City is only looking for a notation of this coverage on the Certificate of Insurance. This is NOT the case.

Historically the City had accepted the note in the bottom right hand corner of the previous ACORD as evidence of this coverage. With that option no longer available we must use other forms of evidence of this endorsement.

The City of Austin contract documents clearly state that an ENDORSEMENT providing Thirty 30 Day Notice of Cancellation is required on each policy. If the policy can be endorsed but the reference to the endorsement cannot be added to the certificate of insurance they may provide a copy of the actual endorsement.

If the carrier/insurance company does not offer the Thirty 30 Day Notice of Cancellation endorsement/coverage, it will be necessary that a statement to that effect be provided by the carrier/underwriter for City file documentation. This documentation is to be placed in the contract file along with the certificate of insurance. This written evidence may be in the form of an email.



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APPLICATION PROCESS

- Completed Sidewalk Café Application with \$100 non-refundable processing fee (*Payable to the City of Austin*)
- Provide Proof of property ownership (*Warranty Deed or Deed of Trust*)
- Provide complete list of adjacent businesses including names and addresses.
- Provide written authorization of fee title owner of the real property.
- Provide Completed Resolution or recorded copy of DBA.
- Provide General Commercial Liability in the amount of \$500,000 or \$1,000,000 for liquor liability, naming the City of Austin as an additional insured. A copy of your TABC permit is required if selling alcohol.
- Provide a conceptual drawing of the proposed café, **drawn to scale**, showing the full area of the café encroachment. Show all proposed furnishings and related appurtenances in relation to the existing conditions and amenities to include: building face, trees, light poles, sidewalk furnishings, parking meters, manholes, etc...
- Provide a list of all materials to be used in the ROW.
- Provide a photograph of existing conditions prior to the café installation.

CAFÉ REVIEW AND REQUIREMENTS

- Provide Annual ROW Bond (\$5,000 with no bolt or \$10,000 with one bolt per corner)
 - Sidewalk Cafes must comply with the most current requirements under the Americans with Disabilities Act (ADA)
 - Sidewalk Cafes, from outside the encroachment area, must maintain a minimum of 6 feet pedestrian clear zone. Additional area may be required based on the level of pedestrian activity and width of the sidewalk.
 - No furnishings shall interfere with ingress and egress of doorways.
 - Boundaries to establish café boundaries in conjunction with TABC Permit requirements may be required.
 - Completion of review by applicable City Departments, Private Utility Providers, and Walk of Stars.
 - Review of comments from Adjacent Business Owners/Tenants received.
 - Sidewalk Cafes along corridors having a Historical Designation requires approval from the Historical Landmark Commission. (*Areas included are along 6th Street from IH 35 to Lavaca Street, Trinity Street from 6th to 7th Street or 5th Street from Neches to Red River.*)
- or**
- Sidewalk Cafes along the following corridors requires approval from the Walk of Stars Association and Historical Society. (*Areas included are along 6th Street from IH 35 to Congress Avenue, Trinity Street from Cesar Chavez Street to 6th Street.*)

PROCESSING

- After approval from the City, staff will prepare the Maintenance Agreement, which must be signed by the permit holder. *Requests for renewal must be prior to the expiration of the permit.*
- Receipt of payment at the rate of \$200 per year for sidewalk area, for a timeframe not to exceed five years in advance.
- Applicant will receive Temporary Sidewalk Café Permit



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SIDEWALK CAFÉ APPLICATION

AREA REQUESTED

SIDEWALK PARKING SPACE

PERMITTED ITEMS

<input type="checkbox"/> CHAIRS # of _____	<input type="checkbox"/> PLANTERS # of _____	<input type="checkbox"/> DECKING # of _____
<input type="checkbox"/> TABLES # of _____	<input type="checkbox"/> STANCHIONS # of _____	<input type="checkbox"/> BENCHES # of _____
<input type="checkbox"/> RAILING # of _____	<input type="checkbox"/> UMBRELLA(S) # of _____	<input type="checkbox"/> OTHER - Shown on Exhibit _____

APPLICANT INFORMATION ***this individual will serve as the Permit Holder***

Applicant Name: *First:* _____ *Middle Initial:* _____ *Last:* _____
 Address: _____
 City: _____ State: _____ ZIP Code: _____
 Phone: _____ E-mail: _____ Fax: _____
 Alternate Phone: _____

BUSINESS INFORMATION

Business Name/DBA: _____
 Address: _____
 City: _____ State: _____ Zip Code: _____
 Phone: _____ Alternate Phone: _____

Is this business being used for a restaurant use or food sales use as defined in Section 25-2-4 (*Commercial Uses Described*)? Yes No

PROPERTY DESCRIPTION OF AREA TO BE PERMITTED

Parcel Number: _____ Survey & Abstract Number: _____
 Lot(s) _____ Block: _____ Outlot: _____
 Subdivision Name: _____
 Plat Book: _____ Page Number: _____ Document Number: _____
 County/ Records: _____ County _____ Deed Real Property Official Public

LANDOWNER INFORMATION

Name: *First:* _____ *Middle Initial:* _____ *Last:* _____
 Address: _____
 City: _____ State: _____ ZIP Code: _____
 Phone: _____ Alternate Phone: _____

(If multiple owners are filing jointly – complete names and addresses must be attached for each)

LIQUOR INFORMATION

Liquor Sales: Yes No
If yes, \$1,000,000 Liquor Legal Insurance is required. Applicant shall comply with all requirements of the Texas Alcoholic Beverage Commission. Provide the name of the license holder and the license number of the T.A.B.C. Food & Beverage permit.
 License Holder Name: _____ Permit Number: _____

HISTORIC DESIGNATION

Historical Designation? <input type="checkbox"/> Yes <input type="checkbox"/> No	Historic Zoning? <input type="checkbox"/> Yes <input type="checkbox"/> No	Property In Historic Zoning District? <input type="checkbox"/> Yes <input type="checkbox"/> No
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The undersigned Applicant understands that processing of this application will be handled in accordance with the applicable City ordinance and the procedure for requesting a permit; and that no action on processing will be taken without payment of the non-refundable processing fee. It is further understood that acceptance of this application and fee in no way obligates the City to permit the subject area.

Applicant signature _____ Print Name _____



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SIDEWALK CAFÉ APPLICATION

FEE TITLE OWNER OF THE REAL PROPERTY AUTHORIZATION FORM

The City of Austin has included this form as part of an application for an Initial Renewal Permit to use the public right-of-way adjacent to your business. The request is for the activity checked below, within the area shown on the attached exhibit.

Sidewalk Parking Space

Please note that the improvements will remain in place until the agreement has been terminated.

If there are specific concerns, hazards and/ or activities that would violate City ordinance or cause undue hardship, please provide written comment on this form.

Please note this authorization form will not be recorded or be subject to a Fee Title Search. By signing this form, no liability is assumed.

FEE TITLE OWNER OF THE REAL PROPERTY

Please fill this section out completely, as this information will be considered by the City of Austin to determine whether or not the use indicated above will be approved or denied. If you check, "No, I do not authorize", please take the time to provide additional information in the comments section below.

Yes, I authorize No, I do not authorize

(Print Name and Title)

(Signature)

(Print Address)

(Phone Number)

COMMENTS



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BUILDING OWNER AND ADJACENT PROPERTY OWNER/TENANT CONTACT INFORMATION

Please provide information on the Adjacent Properties below. This form must be filled out and turned in before application can be accepted.

Building Owner _____

Name of Business _____

Name of contact person _____

Contact address _____

Adjacent Property #1 _____

Name of Business _____

Name of contact person _____

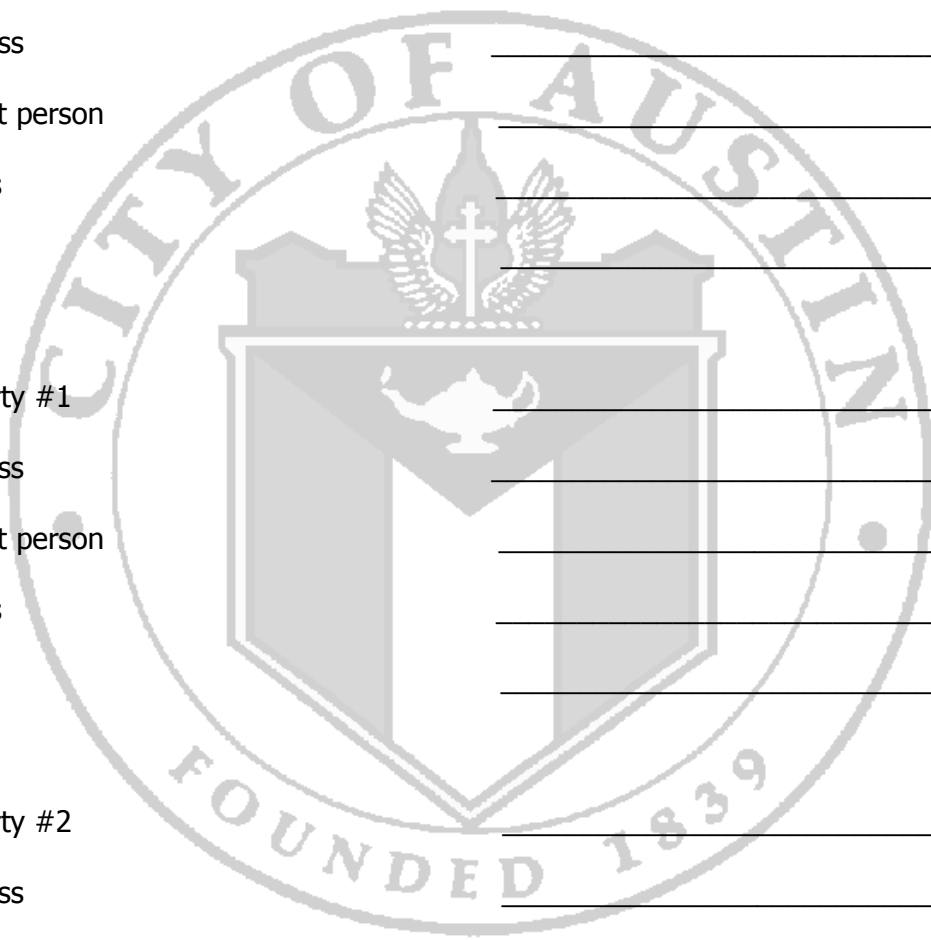
Contact address _____

Adjacent Property #2 _____

Name of Business _____

Name of contact person _____

Contact address _____



BOND

ANNUAL BOND

THE STATE OF TEXAS
COUNTY OF TRAVIS

WHEREAS, _____ may from time to time construct, alter, or repair buildings, and do other work, at various locations in the City of Austin, and in doing such work may need use of certain areas and spaces in the sidewalks, streets and alleys at, adjacent to, or near such work during the progress of same; and in such event, will apply to the City of Austin to grant such privileges, and any such privileges, that may be granted by the City of Austin will be under such specifications, conditions, and limitations as will appear in the act of the City making such grant, which will include and express the obligation to comply with all laws and ordinances pertinent to such work, and the provision for indemnity for the City of Austin against all damages that may be charged against said City as the result of the exercise of the privileges contained in such grant; and it is the intent of the said _____ to execute such obligation and indemnity by this instrument to the extent herein expressed, such indemnity to cover all such privileges irrespective of time and location within the City of Austin, for the period at _____ a.m. _____ p.m. _____, ending at _____ a.m. _____ p.m. _____; provided, that the City of Austin may require additional indemnity of the said _____ if in its discretion the conditions demand it; Now, THEREFORE,

KNOW ALL MEN BY THESE PRESENTS:

THAT we, _____, as principal, and _____ as surety, acknowledge ourselves bound to pay unto the City Manager of the City of Austin, and to his/her successors in office, for the use and benefit of the City of Austin, a municipal corporation, the sum of FIVE THOUSAND DOLLARS (\$5,000.00), for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns by these presents.

The conditions of this obligation are such that if the above bounden _____ shall protect, indemnify and hold harmless the City of Austin from and on account of any and all claims for damages to any person or property, costs, expenses, action, or causes of action that may accrue to or be brought by any person at any time hereafter against the City of Austin, by reason of the exercise of the privileges granted by the City of Austin to the said _____ as above stated, or of the abuse of said privileges, and if the above bounden _____ shall faithfully observe any and all the regulations, conditions, and limitations fixed by the City of Austin to the use of any such privileges and all pertinent rules, regulations, and ordinances of the City of Austin in the use of such privileges, and if the work is abandoned, shall construct necessary safeguards to protect the public around the site and shall replace or repair in accordance with the requirements of the City such sidewalks, guard rails, public utilities or other property damaged by the principal herein, there this obligation shall be null and void and of no effect; but otherwise the same shall remain in full force and effect.

WITNESS OUR HANDS, THIS _____ DAY OF _____, _____

APPROVED:

BUILDING OFFICIAL

PRINCIPAL

SURETY

LICENSE AND PERMIT SURETY BOND

THE STATE OF TEXAS
COUNTY OF TRAVIS

KNOWS ALL BY THESE PRESENTS:
BOND NO. _____.

PRINCIPAL, _____, (check one) a ___ corporation ___ partnership ___ sole proprietorship ___ limited liability, engaged in the construction, reconstruction, alteration, removal, or repair of sidewalks, curbs, gutters, driveways, buildings and/or doing such other work that may necessitate the use of certain public rights-of-way within the City of Austin, Texas ("CITY"), AND

SURETY, _____, a solvent company authorized under the laws of the State of Texas to act as surety on bonds for principals, agree to bind ourselves, our successors and assigns, jointly and severally, unto the CITY and to all persons who may suffer injury from any work undertaken by PRINCIPAL hereunder, as OBLIGEES, in the sum of ten thousand dollars (\$10,000.00).

PRINCIPAL and SURETY are bound to pay this amount to OBLIGEES only if PRINCIPAL fails to fulfill the following obligations:

- a. PRINCIPAL shall indemnify and hold harmless the CITY and all other persons and entities from all claims for damages to any person or property, including all costs and expenses, arising out of PRINCIPAL's use of the right-of-way within the CITY;
- b. PRINCIPAL shall repair any damage and correct any defect to the right-of-way caused by faulty materials or workmanship or when such damage or defect is caused, directly or indirectly, by PRINCIPAL's use of the right-of-way and shall warrant such work for a period of one year following completion of same;
- c. PRINCIPAL shall construct all safeguards ordered by the CITY to protect the public against hazardous conditions at or adjacent to PRINCIPAL's work site;
- d. PRINCIPAL shall pay all fees, charges, fines, assessments or judgements levied against or incurred by PRINCIPAL which may become due to the CITY or to other persons or entities as a result of the construction activities undertaken hereunder by PRINCIPAL;
- e. PRINCIPAL, its agents and employees shall perform all work in strict compliance with all applicable laws, ordinances, resolutions, rules and regulations; and
- f. PRINCIPAL and SURETY shall not violate any of the terms of this bond

If this bond is canceled or the coverage of this bond is reduced for any reason, SURETY shall immediately deliver written notice of such to the CITY and to the Director of the Austin Transportation Department. The cancellation or reduction becomes effective after thirty (30) working days from the date the CITY receives the notice. Cancellation or reduction does not affect SURETY'S liability on any transaction begun before the effective date of the cancellation or reduction. In the event of cancellation or reduction, PRINCIPAL will be suspended from all rights and privileges and no permit will be issued to PRINCIPAL under the Section 14-11-161 of the City Code of Austin and no License will be issued to PRINCIPAL under Section 14-11-195 of the City Code of Austin. This suspension remains effective until the bond coverage required by the applicable code section is fully restored.

The bond will be binding upon PRINCIPAL and SURETY from the _____ day of _____, 20____, until midnight, December 31, 2015.
Signed, sealed and executed this _____ day of _____, 20____.

PRINCIPAL
BY: _____
(Signature)
Name: _____

Title: _____
Address: _____

Phone: _____

SURETY
By: _____
Title: _____

Address: _____
Phone: _____

APPROVED: CITY OF AUSTIN

Resolution of Corporate Authority

I, _____ {print-name of officer not signing bond} the undersigned _____ {title} of _____ {name of corporation} the "Corporation", hereby certify that:

Corporation is duly organized and existing under the laws of the State of _____. The following is a true and accurate transcript of a Resolution adopted at the _____ {date} Board meeting. The Corporation's Board of Directors adopted the Resolution, which is contained in Corporation's minute book, at a duly authorized board meeting. A quorum of Corporation's Board of Directors was present at the entire board meeting and all actions taken at the meeting complied with Corporation's charter and by-laws. The Resolution has not been amended or revoked on the date signed below, and remains in full force and effect.

Resolved, that _____ {print-name of officer signing the bond}

_____ {title} of _____ {name of corporation}, is

empowered to sign any and all documents on behalf of said Corporation.

Date _____, 20_____.

{Company Seal}
IF AVAILABLE

{signature of officer named at top of form}

{title}

Resolution of Corporate Authority for a Limited Liability Company

I, _____ {print name of member not signing the bond}, the undersigned Member of _____ {name of limited liability company} the "Company", hereby certify that:

Company is a limited liability company duly organized and existing under the laws of the State of _____. The following is a true and accurate transcript of a Resolution adopted at the _____ {date} Member meeting. The Company's Members adopted the Resolution, which is contained in Company's minute book, at a duly authorized meeting. A quorum of Company's Members was present at the entire meeting and all actions taken at the meeting complied with Company's charter and by-laws. The Resolution has not been amended or revoked on the date signed below, and remains in full force and effect.

Resolved, that _____ {print name of member signing bond} _____ {title} of _____ {name of Company}, is empowered to sign any and all documents, to take such steps, and to do such other acts and things, on behalf of said Company, as in his/her [strike one] judgment may be necessary, appropriate or desirable in connection with any License and Permit Surety Bond and related Permit entered into with the City of Austin

Resolved, that all transactions with the City of Austin involving a License and Permit Surety Bond and related Permit by any Members of the Company, in its name and for its account, prior to the adoption of these resolutions, are hereby ratified and approved for all purposes.

Signed and sealed on _____, 20____. {Seal}

Member's signature named at top

Note: Resolution of Corporate Authority for an LLC must authorize the Manager or a Member to act on behalf of the limited liability company, and be signed by, attested, and dated by a Member no earlier than three months before date of License and Permit Surety Bond or related Permit.

Resolution of Corporate Authority as General Partner

I, _____ {name of officer not signing the bond}, the undersigned _____ {title} of _____ {name of corporation} the "Corporation", hereby certify that:

Corporation is duly organized and existing under the laws of the State of _____. The following is a true and accurate transcript of a Resolution adopted at the _____ {date} Board meeting. The Corporation's Board of Directors adopted the Resolution, which is contained in Corporation's minute book, at a duly authorized board meeting. A quorum of Corporation's Board of Directors was present at the entire board meeting and all actions taken at the meeting complied with Corporation's charter and by-laws. The Resolution has not been amended or revoked on the date signed below, and remains in full force and effect.

Resolved, that _____ {name of officer signing the bond} _____ {title} of _____ {name of corporation}, is empowered to sign any and all documents and to take such steps, and to do such other acts and things on behalf of said Corporation, acting in its capacity as General Partner of _____ {name of Partnership}, a _____ {state} Limited Partnership, as in his/her [strike one] judgment may be necessary, appropriate or desirable in connection with any License and Permit Surety Bond and related Permit entered into with the City of Austin

Resolved, that all transactions with the City of Austin involving a License and Permit Surety Bond and related Permit by any General Partner of the Partnership, in its name and for its account, prior to the adoption of these resolutions, are hereby ratified and approved for all purposes.

Signed and sealed on _____, 20____.
{Seal}

{signature of officer named at the top of form}
_____ {title}

Note: Resolution of Corporate Authority authorizing the President or a Vice President to sign all corporate documents must be signed, attested, and dated by the corporate Secretary no earlier than three months before the Closing date.