

CITY OF HERMOSA BEACH
COMMERCIAL OUTDOOR DINING
ENCROACHMENT PERMIT AND COVENANT

RECITALS

A. THIS PERMIT is made and entered into at Hermosa Beach, California, this _____ day of _____, 20____. By and between the CITY OF HERMOSA BEACH, a municipal corporation in the county of Los Angeles, State Of California, hereinafter referred to as "CITY", for the purpose of permitting a portion of the public right-of-way to be used for outdoor dining, and, or:

Hereinafter referred to as "PERMITTEE" which parties do agree as follows:

B. PERMITTEE represents that they are the owners of the business located in Hermosa Beach, legally described as follows: _____ Lot _____, Block _____ Hermosa Beach Tract _____ Commonly known as: _____ Hermosa Beach, CA 90254

And doing business as _____

C. The parties further agree that an encroachment permit application was presented to the public works department of the CITY for permission to encroach in and over a portion of the public right-of-way at: _____ for the sole purpose of outside dining with improvements consisting of the following: _____ square feet of CITY easement to be used for outside dining. A sketch of the proposed improvements and encroachment is on file in the public works department of the CITY and is by reference incorporated herein and made a part hereof.

D. The term of this permit shall be for an undetermined length of time (see termination provision in permit section below) at the rate of _____ per square foot for _____ square feet, for a monthly rate of (\$_____). The rate shall be paid quarterly, in advance, (\$_____ quarterly). The payment schedule is as follows:

PAYMENT DUE

FOR

July 1, Every Year
October 1. Every Year
January 1, Every Year
April 1, Every Year

July, August and September, Lease
October, November and December Lease
January, February and March, Lease
April, May and June, Lease

For the first year and shall be the same for each consecutive year thereafter.

E. PERMITEE further agrees to deposit with the CITY an amount to be determined by the public works department, a cash deposit to be used for restorative costs. This deposit is evidenced by receipt number _____, in the amount of \$ _____ deposit shall be held by the CITY to provide for the removal of improvements on the public right-of-way in the event the PERMITEE does not restore the land within 15 days of surrender of possession of the lease. The encroachment shall be removed by the PERMITEE at no cost to the CITY upon a thirty-day written notice to the PERMITEE from the CITY, and should the CITY in the removal of such encroachment incur any cost, such cost shall become a lien upon the adjacent Business.

PERMIT

1. **Encroachment Permit.** A revocable encroachment permit is hereby granted to property owner on the right-of-way described in the recitals hereinabove as described in the drawing attached hereto as Exhibit A in accordance with the provisions of Chapter 29, Article V of the Hermosa Beach Municipal Code and the provisions of this permit.
2. **Term.** This permit shall take effect on the date set forth hereinabove and shall remain in effect until and unless revoked by City pursuant to termination provision below herein or voluntarily relinquished or abandoned by property owner.
3. **Termination.** This permit is in the nature of a revocable license and may be revoked by the City at any time, with or without cause, in City's sole discretion, upon giving property owner thirty (30) days advance notice of revocation.
4. **Assignment.** This permit shall not be assigned or transferred without the written consent of City. Any such purported assignment or transfer shall be void and of no effect.
5. **Indemnification.** Property owner shall indemnify and hold harmless City, its officers, employees and agents from and against all claims, causes of action, liabilities and damages for injuries to persons and property, including reasonable costs of defense and attorney fees, arising from property owner's encroachment on City property as described in Exhibit A, including but not limited to property owner's negligent or wrongful acts, errors or omissions in the construction, erection and continued maintenance of the encroachment in its location. Property owner shall promptly pay the amount of any judgment rendered against City, its officers, employees and agents for any such indemnified claims, and reasonable costs and attorney fees incurred by City in the defense of such claims.

6. City's right of entry. Property owner acknowledges the City's absolute right to enter upon the encroachment area for purposes of inspection, replacement, repair, or maintenance of public facilities above, on or under the right-of-way and property owner expressly waives any and all claims for damages to its encroachment resulting from such actions.

7. Damage to right-of-way. Property owner assumes responsibility for all damage to City's right-of-way caused by construction or maintenance of the encroachment and shall reimburse City for correction of any such damage. Upon failure of property owner to so reimburse City, the cost incurred by City in removing the encroachment shall be a debt of the property owner to the City, and recoverable by City in any manner provided by law. Moreover, property owner acknowledges that City may record and enforce a lien upon the property in order to recover such costs.

8. Restoration of premises. Within thirty (30) days of termination of this permit, whether upon its expiration or earlier termination, property owner shall at its expense remove the encroachment and restore the property to its condition prior to placement of the encroachment. In the event property owner fails to do so, City shall have the option of removing the encroachment at property owner's expense and property owner waives all claims for damage to the encroachment or property owner's adjacent property or improvements resulting from such removal. The cost incurred by City in removing the encroachment is a debt of the property owner to the City, and recoverable by City in any manner provided by law. Moreover, property owner acknowledges that City may record and enforce a lien upon the property in order to recover such costs.

9. Possessory Interest. Property owner acknowledges that this permit may create a taxable possessory interest subject to property taxation, and that property owner shall be solely responsible for satisfaction of any property taxes levied on the property.

10. Compliance with Codes. Property owner shall perform all work in full compliance with all applicable codes, ordinances and laws, and obtain all necessary permits.

11. Maintenance of encroachment area. During the term of this permit, property owner shall at its sole expense maintain the encroachment area in good condition and appearance, in accordance with all ordinances, and shall not allow a nuisance condition to exist on the encroachment area.

In the event property owner sells, transfers, leases or otherwise conveys any interest or right of possession in the property, property owner shall provide any such purchaser, lessee or transferee a copy of this instrument.

IN WITNESS WHEREOF, property owner has executed this Encroachment Permit and Covenant on the date first written above.

Owner

Owner

APPROVED BY:

ANDREW BROZYNA
DIRECTOR OF PUBLIC WORKS

ATTEST:

CITY CLERK