

License Agreement for Winter Sidewalk Cafe

THIS LICENSE, effective the 1st day of November, 2025. This License expires on March 31, 2026.

WITNESSETH:

That the **CITY OF ROYAL OAK**, a Michigan Municipal Corporation, whose address is 203 South Troy Street, Royal Oak, Michigan, hereinafter called the "Licensor", licenses and permits

_____ **(Business Name)** / _____ **(Business Entity)**, whose address is, _____, **(Corporate Address)** hereinafter called the "Licensee", to make an encroachment into the sidewalk or metered parking spaces adjacent to **(Business Address)** _____, Royal Oak, Michigan, more particularly described as:

Parcel ID: _____

Said encroachment shall consist of a serving area for food and drink surrounded with fence railings located within the sidewalk for cafes, and a structural foundation platform that rests on the street surface for street patios (see Exhibit A). It is hereby understood and agreed that any construction on the public right-of-way shall be of a temporary nature only, and easily removable as hereinafter may be required. No structure of a permanent nature shall be erected within the public right-of-way.

This License is granted upon the following conditions, agreement to which is signified by the signature/s of the Licensee/s:

1. This License shall be seasonal, from November 1 through March 31. The temporary constructed features such as railings surrounding the outdoor dining area and/or street patio platforms shall be removed at the end of each season.

2. A minimum clearance of five (5) feet for pedestrian traffic shall be maintained between the fence railings surrounding the outdoor dining area and all obstructions, including, but not limited to, curbs, parking meters, fire hydrants, streetlamps, benches, planters, waste receptacles, trees, signposts, traffic control devices, and any other streetscape elements. The railings shall align with and extend no further from the building wall than those of other outdoor dining areas on the same block.

The railings surrounding the outdoor dining area should be anchored in accordance with the uniform engineering anchoring system as promulgated by the Engineering Department of the City of Royal Oak and attached hereto as Exhibit B.

A minimum clearance of seven (7) feet shall be maintained between the sidewalk and the bottom edge of table umbrellas or awnings. The outer edge of table umbrellas or awnings must remain inside the railings. No objects shall project beyond the fence and/or other barricades or rail.

Signage or any other form of advertising is prohibited on any fence and/or other barricades or rail surrounding the outdoor dining area.

Smoking is not allowed in outdoor areas such as sidewalk cafes, street patios, patios or rooftops during periods when food, beverages or both are prepared, served or provided to patrons, per Michigan's Smoke-Free Indoor Air Law Public Act No. 188 of 2009. An outdoor area is an open area that is part of, or adjacent to, a fixed food service establishment, such as a restaurant or bar.

3. The Licensee agrees to repair and/or replace any damage to any portion of the sidewalk or streetscape as a result of the installation, maintenance and/or removal of the outdoor dining railing system or street platform. All costs for such repair or replacement, and all work performed, shall be the responsibility of the Licensee. The City Engineer shall have the sole discretion to determine when a sidewalk/streetscape is in need of repair or replacement. All required repairs must be complete before the beginning of the next season.

4. The manner in which the outdoor dining area is encompassed shall be subject to prior approval and inspection by the Police and Engineering Departments.

5. The Lessor shall permit and agree to the use of alcohol only as permitted and/or licensed by the Michigan Liquor Control Commission in the area of and during the term of this License.

6. The Licensee shall furnish and do at the Licensee's own cost and expense any and all things herein permitted or that the Licensee is herein bound to do, including but not limited to any upkeep and maintenance of said sidewalk or streetscape.

The Licensee shall clean the entire area of encroachment and all other adjacent sidewalk areas by removing debris, trash, sweeping and washing down the area each day. The cleaning shall be conducted

as frequently each day as necessary to prevent debris or trash from being blown or scattered onto other properties. A thorough sweeping and cleaning shall be conducted at the close of business each day. The cleaning shall not be postponed until the beginning of the next business day.

Steam cleaning and/or degreasing agents shall be used to thoroughly clean the area of encroachment and all other affected adjacent sidewalk areas as needed. At a minimum, steam cleaning and/or degreasing agents shall be used within the first five (5) days of each month and upon the expiration of the seasonal license agreement.

Failure to comply with any provision of this Agreement shall result in a fine of two hundred dollars (\$200.00), payable to the City of Royal Oak within five (5) days of Notice of Non-compliance. Failure to pay the two hundred dollar (\$200.00) fine shall result in immediate termination of this Agreement. A second act of non-compliance within the license period shall result in immediate termination of the License Agreement upon Notice of the Second Act of Non-compliance. The Licensee may petition the City Commission for reinstatement of the License Agreement.

7. The Licensee agrees and undertakes to indemnify and save the Lessor harmless from any and all claims, demands and rights of action of every name, nature and description, whether arising under state or Federal statutes, or at common law, for injury or alleged injury to persons whether employees of the Lessor, or agents or employees of the Licensee or to third parties, and for damage or alleged damage to property regardless of to whom it may belong or in whose custody it may be, arising through, on account of, or out of the License herein granted, no matter how caused, whether by the negligence of the Lessor, its agents, employees or otherwise. The Licensee agrees that in case claim is made or suit instituted against the Lessor for such loss, injury or damage, including liability under a Dramshop claim, the Licensee will, upon notice from the Lessor, settle, adjust or defend the same at its sole cost and expense, without expense to the Lessor, and will pay any judgment rendered therein together with Court costs.

8. The City of Royal Oak shall be added as additional insured to Licensee's general liability insurance policy and shall provide the City with a copy of the Certificate of Insurance therefore prior to the November 1st opening each year. The additional insured endorsement supported by language on the certificate of insurance **must** read as follows:

"City of Royal Oak, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers." Coverage afforded is considered primary and any other insurance the City of Royal Oak may have in effect shall be considered secondary and/or excess.

The cancellation notice on the certificate of insurance **must** read as follows:

"Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions."

The general liability insurance policy and the Certificate of Insurance must be effective for the duration of the seasonal license from November 1 through March 31 each year. It is the responsibility of the Licensee to provide a Certificate of Insurance for the license period of November 1 through March 31, to the Royal Oak City Treasurer as a condition precedent to the issuance of a License. The Licensee shall carry insurance coverage in the amount of three hundred thousand dollars (\$300,000.00) for liquor, one million dollars (\$1,000,000.00) for general and products liability. Umbrella coverage in the amount of one million dollars (\$1,000,000.00) may also be used if the general liability coverage is less than one million dollars (\$1,000,000.00). Furthermore, the Licensee agrees to reimburse the Licensor for any deductible costs or claims expenses arising from any claims or suits filed against the City.

9. The Licensee shall immediately cease operation or any use of the encroachment upon receipt of a Notice of Cancellation of insurance. Licensee shall not resume any use of the encroachment until presentation of a valid Certificate of Insurance and approval by the City Manager to resume use of the encroachment.

10. The Licensee agrees that the Licensor has the right to revoke and terminate this Agreement without just cause or other explanation of any sort being required. The Licensee shall immediately cease operation or any use of the encroachment upon written or oral notice by Licensor. Upon termination, Licensee shall restore the sidewalk to its original condition.

11. The Licensee understands and acknowledges that there are or may be utility easements in this public right-of-way. Licensee agrees that should any additions, repairs or corrections be required to be made to any utility located within said right-of-way, all costs or expenses concomitant with the removal and replacements associated with the encroachment shall be borne by the Licensee. It is further agreed and

understood that the Licensor or its agents shall be allowed to make any and all emergency repairs to the utilities located upon or within such easement without being required to give notice to Licensee.

12. That in the event the Licensee sells, leases or relinquishes control of the business and/or property or any portion thereof, Licensee shall immediately notify the office of the City Manager and this License Agreement shall immediately terminate.

13. That the last call for service of food and drink shall be no later than 1:00 a.m. All patrons must vacate the outdoor dining area no later than 1:30 a.m.

14. For any Licensee who serves beer, wine, liquor, mixed drinks, or any type of alcoholic beverage, security personnel, staff supervision, or host shall be provided at the outdoor dining area during peak operating hours. For any Licensee who serves beer, wine, liquor, mixed drinks, or any type of alcoholic beverage, security personnel, staff supervision, or host shall be on duty no later than 6:00 p.m. and shall continue as long as food and drink are being served, or until all patrons have vacated the outdoor dining area. Security personnel, staff supervision or host shall be provided for, and conduct themselves consistent with all current Liquor Control Commission Rules and Regulations.

15. By executing/signing this Agreement the Licensee certifies that they are in full compliance with license requirements of the State of Michigan for outside sales of alcohol. (R436.1419).

16. There shall not be any live music on any outdoor dining area without prior approval of the City Commission.

17. That during the term of this License, the Licensee shall post a one-thousand-dollar (\$1000.00) cash performance bond or such other amount as may be required by the City Engineer to assure full compliance with the term hereof. The bond may be applied to any outstanding fines or charges, or to pay for any damage to any portion of the sidewalk or streetscape as a result of the installation, maintenance and/or removal of the outdoor dining railing system or street platform that is performed by the City. The cash performance bond may be refunded thirty (30) days after the expiration of the license period, at the request of the Licensee, unless there is any pending action against the cash performance bond.

18. For any Licensee who serves beer, wine, liquor, mixed drinks, or any type of alcoholic beverage, the basic license fee each year for an area of one hundred eighty (180) square feet or less shall be seven

hundred fifty dollars (\$750.00) for a first time applicant, and six hundred dollars (\$600.00) for the renewal of a previously approved Licensee. For all other types of businesses that do not serve beer, wine, liquor, mixed drinks or any other alcoholic beverage, the basic license fee each year for an area of one hundred eighty (180) square feet or less shall be three hundred seventy-five dollars (\$375.00) for a first time applicant, and three hundred dollars (\$300.00) for the renewal of a previously approved license. The license fee shall be payable at the time of application for the License Agreement. For any Licensee which occupies a portion of the streetscape designated as metered parking spaces shall furnish a Meter Space Use Fee equal to twenty-five dollars (\$25.00) per day of occupancy for each space. The Meter Space Use Fee shall be payable at the time of License approval.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

Business Name _____

Signature _____

Print Name _____

Title _____

CITY OF ROYAL OAK

Michael Fournier, Mayor _____

Melanie Halas, City Clerk _____

Approved as to form:

City Attorney _____