



# CITY OF ITHACA

## OUTDOOR DINING -TERMS AND CONDITIONS

### OUTDOOR DINING PERMIT TERMS AND CONDITIONS

1. Permittee hereby agrees that the following terms and conditions govern the permit to use the outdoor dining area denoted on the outdoor dining permit and application materials, or any other City-property as may be permitted by the City.
2. Permittee hereby agrees to:
  - a. Comply with all applicable local, state, and federal laws, ordinances, and regulations.
  - b. Comply with any directive of the Superintendent of Public Works or his/her designee.
  - c. Refrain from operating within the permitted area after this permit has expired or the permit is suspended or revoked.
  - d. Surrender any rights under this permit promptly upon revocation or suspension of the permit. In the event the Vendor fails to comply, the City may take all necessary measures to effect removal of the permittee's property from the permitted area and enforce termination of the permit.
3. Permittee affirms that Permittee has reviewed and shall comply with all provisions of the City of Ithaca Outdoor Dining Regulations and the applicable Outdoor Smoking Regulations as set forth in the City Code §280-4, which are attached and included with this permit as Attachment A. The Outdoor Dining Information Packet is hereby attached and made a part of the permit and these terms and conditions by reference.
4. Permittee shall conspicuously display the permit at all times during outdoor dining operations.
5. Any business who violates the guidelines regarding the placement of outdoor dining furniture and fixtures shall receive a written warning letter for the first violation from the Office of the Superintendent of Public Works. The business shall be liable for a penalty of \$250 for the second violation in a 12 month period, \$500 for the third violation in a 12 month period, and \$1,000 for the fourth and subsequent violations in a 12 month period. In lieu of a \$1,000 fine, the business may agree to a temporary permit revocation of seven (7) consecutive days within a month from when the violation is served. **Violations of City Code §157 could be a basis for denying any future outdoor dining applications.**
6. Suspension or Termination of Permit. The City of Ithaca may terminate this mobile vending permit at any time with or without cause, and the permit shall end immediately or upon such date as specified by the Superintendent of Public Works.
  - a. If the termination is for the City's convenience or purposes, the Permittee shall be reimbursed for the period of time that would be remaining if the permit were not terminated before expiration.
  - b. If the permit is revoked for cause, Permittee may not reapply for another outdoor dining permit until the expiration of one year from the date of revocation of the permit and Permittee shall not be entitled to any refund of the permit fee.
7. Permittee shall indemnify the City of Ithaca and hold it harmless (which shall include but be not limited to Permittee's responsibility for the City's reasonable attorney's fees and costs) with regard to any and all claims arising from the use of the premises as herein contemplated and permitted. Permittee shall procure, maintain, and show proof of general commercial and automobile liability insurance coverage with limits of liability not less than \$1,000,000 per occurrence. The City of Ithaca shall be named as additionally insured on the policy.
8. Permittee's rights under this permit may not be assigned, transferred, sublet, or sold without written authorization from the Superintendent of Public Works. Permittee shall notify the Office of the Superintendent of Public Works in writing within 10 days of any name or address change.
9. If any clause, sentence, paragraph, section, or part of the permit, including its terms, conditions, rules or guidelines shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

#### PERMITTEE:

BY: \_\_\_\_\_

Print Name \_\_\_\_\_

DATE: \_\_\_\_\_