RESTAURANT ENCROACHMENT PERMIT

Name of Business _____ Phone _____
Address _____

Name of Business Owner _____ Phone _____
Address _____ Social Security # _____
City/State/Zip _____ Driver's License # _____

Name of Business Owner _____ Phone _____
Address _____ Social Security # _____
City/State/Zip _____ Driver's License # _____

Provide a description of the tables, chairs and other equipment intended to be used and their desired location (include a scaled site plan showing the proposed table and chairs and their distance to property line, driveways, structures, etc.).

Public Property Use Fee (Refer to Current Fee Schedule) RECEIPT NO. _____
(Make check payable to the City of Merced)

I agree to the following conditions.

Signature _____ Date _____

STANDARD CONDITIONS FOR RESTAURANT ENCROACHMENT PERMIT

1. A Permittee shall only use such sidewalk or park as is designated and approved by the City Manager or his designee. The use shall not be conducted in such a manner as to obstruct the free passage of any sidewalk or parkway nor shall it obstruct the free passage into or from any business office or other establishment. Public safety shall be the principal factor considered when determining allowable locations.

2. A designated location shall not:

   - Obstruct a five (5) foot area for pedestrian travel along the sidewalk. The five-foot clearance shall be maintained at all times.

   - Extend beyond the projected line of the building frontage.

   - Extend to a depth of more than ten (10) feet from the property line.

   - Be located along more than one building frontage.

   - Be located within ten (10) feet any of any driveway or alley approach.

3. Permittees shall only sell food and beverages. The sale of goods and/or merchandise is prohibited.

4. Permittee shall erect no permanent structure within the encroachment area.

5. No signs (i.e. A-frame signs aka “sandwich board” signs) shall be placed within the encroachment area. Banners are allowed by permit only, not to exceed 120 days per year, at a max of 30 days per application period.

6. All tables, chairs and other equipment shall be removed from the encroachment area during non-business hours.

7. The sale and consumption of alcoholic beverages shall be permitted within the encroachment area if Permittee complies with all other laws relating to the sale of alcoholic beverages (please review and sign attached liquor liability insurance form).

8. Owner shall keep area free from trash and debris.

9. This permit shall be reviewed yearly to ensure compliance with these conditions.

10. At the option of the business owners, smoking shall be prohibited within the encroachment area. Any person who smokes in an area so designated as non-smoking is guilty of an infraction.

11. By executing this document every Permittee agrees to indemnify and hold harmless the City, its officers, agents and employees from any and all liability, costs, damages or injuries to persons or damage to property which may arise out of or in any way be connected with the use of the encroachment permit.

12. Provisions addressed in Ordinance #1941 Chapter 12.36 (Encroachment Permits for Restaurants) shall apply.

The undersigned applicant does hereby agree to indemnify and hold harmless the City of Merced, its officers, agents and employees from any and all liability, costs, damages, or injuries to persons or damage to property which may arise out of or in any way be connected with the business.

_____	_____
Owner	Date
_____	_____
Owner	Date

ADDITIONAL CONDITIONS (As applicable)

OFFICE USE

APPLICATION APPROVED SUBJECT TO CONDITIONS _____

BY _____ DATE _____
Development Services Department (385-6858)

BY _____ DATE _____
Merced Police Department (385-6912)

REFUSAL OR REVOCATION OF PERMIT: Violation of any provision of this Chapter, or any federal, state, county or local health regulations shall be grounds for revocation of the encroachment permit. In addition, any conduct of any Permittee that is a threat to public health and safety shall be grounds for immediate revocation of the encroachment permit. Violation shall be grounds for denial of any subsequent application by the Permittee. The applicant or permit holder, in such case, shall have the right to appeal said revocation to the City Council.

DEVELOPMENT SERVICES DEPARTMENT
CITY OF MERCED
678 W. 18TH STREET, MERCED CA 95340
PHONE (209) 385-6858

LIQUOR LIABILITY INSURANCE
-POLICY-

YOU HAVE APPLIED FOR A RESTAURANT ENCROACHMENT PERMIT AND HAVE INDICATED THAT ALCOHOLIC BEVERAGES WILL EITHER BE SERVED OR SOLD AS PART OF THE FUNCTION OR ACTIVITY BEING CONDUCTED.

THE MERCED CITY COUNCIL HAS ADOPTED ORDINANCE #1941 CHAPTER 12.36 DEALING WITH ENCROACHMENT PERMITS FOR RESTAURANTS WHEREAS WHEN ALCOHOLIC BEVERAGES ARE TO BE SERVED OR SOLD, THE OWNER(S) OF THE BUSINESS SHALL BE REQUIRED TO COMPLY WITH ALL OTHER LAWS RELATING TO THE SALE OF ALCOHOLIC BEVERAGES.

FOR BUSINESS OWNERS SERVING OR SELLING ALCOHOLIC BEVERAGES OUTDOORS, WE RECOMMEND THAT YOU CONTACT YOUR INSURANCE CARRIER TO OBTAIN SPECIFIC INFORMATION ON COVERAGE.

WHETHER YOU SELL OR SERVE ALCOHOLIC BEVERAGES, IT IS YOUR RESPONSIBILITY TO COMPLY WITH THE RULES AND REGULATIONS OF THE CALIFORNIA STATE DEPARTMENT OF ALCOHOL BEVERAGE CONTROL WITH REGARD TO OBTAINING THE NECESSARY LICENSES OR PERMITS. SHOULD YOU HAVE ANY QUESTIONS REGARDING THE REQUIREMENT FOR A LICENSE OR PERMIT, YOU SHOULD CONTACT THE CALIFORNIA STATE DEPARTMENT OF ALCOHOL BEVERAGE CONTROL, 31 EAST CHANNEL STREET, ROOM 168, P.O. BOX 150, STOCKTON, CALIFORNIA 95201; TELEPHONE (209) 948-7739.

I CERTIFY THAT I HAVE READ AND REVIEWED THE LIQUOR LIABILITY POLICY OF THE CITY OF MERCED AND WILL COMPLY WITH THESE REQUIREMENTS.

_____ _____
SIGNATURE DATE

Title 12 STREETS AND SIDEWALKS

Chapter 12.36 RESTAURANT ENCROACHMENT PERMITS

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12.36.010 Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively prescribed to them:
A. "Building frontage" means the length of a side of a building which faces directly upon a public street or park. For purposes of this chapter, "faces directly upon a public street or park" means that the area formed by extending lines to the street or park from the two building sides which intersect the subject side of the building will not intersect in any portion of an existing structure.
B. "Permittee" means an applicant issued an encroachment permit pursuant to this chapter.
C. "Restaurant" means a commercial business establishment engaged in the selling of food or drink for consumption on the premises. (Ord. 1941 § 1 (part), 1996).

12.30.020 Permit required.

A. It is unlawful far any restaurant owner or operator to construct, erect, place, keep or maintain any sign, showcase, rack, frame, table, chair or other device for the storage, display or sale of any food or merchandise of any kind, or to construct any structure or obstruction of any type along, under, over or above any public sidewalk or park without first obtaining an encroachment permit from the city manager or his designee. Notwithstanding Section 12.08.020, encroachment permits shall be issued if all the requirements of this chapter are met and the city manager or his designee finds that the granting of such encroachment permit will not unduly interfere with the

rights of the public or significantly contribute to any traffic or other safety hazards.
B. All encroachment permits shall expire on December 31st of each year and are revocable at any time by the city council. Encroachment permits do not constitute the granting of an easement by the city and are only transferable or assignable with the permission of the city manager or his designee. Encroachment permits may be renewed on an annual basis. (Ord. 1941 § 1 (part), 1996).

12.36.030 Application for encroachment permit.

Applications for encroachment permits pursuant to this chapter shall be submitted to the city manager. Every application shall contain the following information:
A. The name, address, social security number and driver's license number of every owner of the business. This information must be kept current;
B. A description of the tables, chairs and other equipment intended to be used and their desired location;
C. Such additional information as may be required by the city manager or his designee. (Ord. 1941 § 1 (part), 1996).

12.36.040 Insurance.

Every permittee shall be required to furnish the city with a certificate of insurance with coverage of at least $500,000 for property damage and $500,000 for personal injury or a minimum combined single limit coverage of $500,000 naming the city, its officers, agents and employees as additional insureds. This certificate shall provide that thirty (30) days written notice of cancellation shall be given to the city. (Ord. 1941 § 1 (part), 1996).

12.36.050 Hold harmless agreement.

Every permittee shall sign an agreement to indemnify and hold harmless the city, its officers, agents and employees from any and all liability, costs, damages or injuries to persons or damage to property which may arise out of or in any way be connected with the use of the encroachment permit. (Ord. 1941 § 1 (part), 1996).

12.36.060 Public property use fee.

For the privilege of using public property for a commercial enterprise, an annual public property use fee shall be paid by a permittee in advance in the sum of one hundred fifty dollars ($150) for each encroachment permit. (Ord. 1941 § 1 (part), 1996).

12.36.070 Designated location.

A. A permittee shall only use such sidewalk or park as is designated and approved by the city manager or his designee. The use shall not be conducted in such a manner as to obstruct the free passage of any sidewalk or parkway nor shall it obstruct the free passage into or from any business office or other establishment.
B. Public safety shall be the principal factor considered when determining allowable locations. In addition, a designated location shall not:
1. Obstruct a five (5) foot area for pedestrian travel along the sidewalk. The five-foot clearance shall be maintained at all times.
2. Extend beyond the extended line of the building frontage of the restaurant.
3. Extend to a depth of more than ten (10) feet from the property line.
4. Be located along more than one building frontage.
5. Be located closer than ten (10) feet of any driveway or alley approach. (Ord. 1941 § 1 (part), 1996).

12.36.080 Products sold.

Permittees shall only sell food and beverages. The sale of goods and/or merchandise is prohibited. (Ord. 1941 § 1 (part), 1996).

12.36.090 Additional prohibitions.

A. Permittee shall erect no permanent structure within the encroachment area.
B. No signs shall be placed within the encroachment area.
C. All tables, chairs and other equipment shall be removed from the encroachment area during non-business hours. (Ord. 1941 § 1 (part), 1996).

12.36.100 Sale of alcoholic beverages.

Notwithstanding Section 9.12.020, the sale and consumption of alcoholic beverages shall be permitted within the encroachment area if permittee complies with all other laws relating to the sale of alcoholic beverages.

12.36.110 Smoking optional.

At the option of the business owners, smoking shall be prohibited within the encroachment area. Any person who smokes in an area so designated as non-smoking is guilty of an infraction. (Ord. 1941 § 1 (part), 1996).

12.36.120 Revocation of encroachment permit.

A. Violation of any provision of this chapter, or any federal, state, county or local health regulations shall be grounds for revocation of the encroachment permit. In addition, any conduct of any permittee which is a threat to public health and safety shall be grounds for immediate revocation of the encroachment permit. Violation shall also be grounds for denial of any subsequent application by the permittee.
B. Notice of revocation hearing before the city manager shall be given to the permittee by mail at least five (5) days before the date of the hearing. At the hearing, the permittee may show cause why such permit should not be revoked or should not have been revoked. The city manager shall mail his determination of the revocation to the permittee within five (5) days after the hearing. (Ord. 1941 § 1 (part), 1996).

12.36.130 Appeal.

Any decision of the city manager to issue, revoke, or deny an encroachment permit may be appealed to the city council by filing a written appeal with the city manager within ten (10) days of mailing of the city manager's decision. The city council shall hear the appeal at the next regularly scheduled meeting provided that the appeal is received at least seven (7) days before the meeting date. The city council's decision shall be final. (Ord. 1941 § 1 (part), 1996).

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