



Dedicated to a better Brisbane

Submit this application via email to:
malls.management@brisbane.qld.gov.au, *or* mail to:
City Malls Management
Level 3, 117 Queen Street, Brisbane QLD 4000
or fax to: (07) 3403 8198

BRISBANE CITY COUNCIL

Permit to Occupy and use part of the Valley Malls Schedule 1 – Terms and Conditions for Outdoor Dining

Please keep these Standard Terms and Conditions of Permit for your record

1. The fee for the permit shall be \$209.00 per square metre per annum paid in advance. Such fee can be paid at the Customer Service Centre of the Council, Brisbane Square, 266 George Street, Brisbane.
2. No Gas, electric light or other source of power is provided to, nor will be permitted to be installed in the permit area without the consent of the Manager, City Malls.
3. The permit area shall be used solely for the provision of tables and chairs of a type approved by the Council's delegate pursuant to Clause 6 for the use and comfort of the permittee's customers who have purchased food or drink, or both, or have been served food or drink, or both, from the permittee's premises AND SHALL NOT BE USED:
 - (a) for the sale or supply of take-away foods or beverages;
 - (b) for the storage, sale or exhibition for sale of any goods whether associated with such business, or not; or
 - (c) for any other business whatsoever
4. The permittee shall not display, offer for sale or sell goods in the permit area or in any other part of the Mall.
5. The premises shall be open and remain open during normal trading hours that a similar business would normally be open for, unless –
 - (a) weather conditions are such that it is impracticable to do so; or
 - (b) the Council delegate under his hand permits or directs otherwise in particular circumstances.
6. The permittee shall provide such table and seating accommodations and such other furniture as is agreed upon, from time to time, by the Council and the permittee and such tables and seating accommodation shall be of a type, quality, size and constructed of materials approved by the Council or its delegate.
7. The permittee shall be allowed 1 standard A-frame in the permit area and shall be of a type, quality, size and location approved by the Council or its delegate.
8. The permittee shall –
 - (a) not erect any fixture or fitting in the permit area which can not be removed daily as part of the moveable furniture unless other consent has been given by the Manager, City Malls.
 - (b) on the surrender or termination of the permit, take down and remove all moveable improvements which are the property of the permittee from within the permit area; and
 - (c) subject to Council giving to the permittee 7 days notice in writing, make good at their cost any disturbance of or damage to the Mall caused by the permittee, to the satisfaction of the Council or its delegate. If at the expiry of the 7 days notice period, the permittee remains in default, the Council or its delegate shall have the right to carry out the reasonable works of reinstatement of the Mall and to recover the reasonable costs thereof from the permittee upon demand;
 - (d) be responsible for the supply of planter boxes to define the permit area with such planter boxes being of a type, quality and size and constructed of materials approved by the Council's delegate. No plastic planter boxes will be approved. The planter boxes and plants are to be maintained to a high standard and be free from litter, weeds and dead plants.
 - (e) be compliant with all food hygiene regulations imposed by the Compliance and Regulatory Service section.
 - (f) be responsible for achieving a standard of cleanliness and maintenance within the outdoor dining area that is acceptable to the Manager, City Malls.
 - (g) remove any outdoor dining furniture from permitted area at the end of trade.
 - (h) under no circumstances is the permittee to conduct outdoor dining outside the designated permit area.
9. The permittee shall not carry on, permit or suffer to be carried on upon the premises or any part thereof any illegal, improper, immoral, noxious or offensive trade, business, occupation, activity or call or do, cause, permit or suffer upon the premises anything which may be or become a nuisance, annoyance or grievance or cause damage to the Council or its other permittees or owners or occupiers of neighbouring premises.

10. The permittee shall not assign, mortgage, charge or part with the possession of the permit area or any part thereof with any person, body, firm or corporation the occupation thereof without the consent in writing of the Council which consent shall not be unreasonably withheld under the hand of the Manager, City Planning and Economic Development first obtained or without such consent attempt to assign, mortgage, charge or part with the possession of as aforesaid.
11. The permittee shall not make any alterations or additions or any alterations or additions to be made to the permit area or any other part of the Mall without first obtaining written consent from Council which consent shall not be unreasonably withheld.
12. The permittee shall not mark, paint, drill into, cut, alter, deface or injure any part of the pavement or fixtures of the permit area or any other part of the Mall subject to Clause 10.
13. The permittee shall –
 - (a) ensure all food waste is removed within 10 minutes of customers departing
 - (b) keep the premises which includes the approved surface area, tables, chairs, umbrellas and planter boxes in a clean, neat and tidy condition and free from litter or any accumulation of useless property or rubbish thereon to the satisfaction of the Manager, City Malls; and
 - (c) not use any receptacle placed in the Mall by the Council for the disposal of refuse from the Mall other than such receptacles, if any, as the Council may provide.
14. The permittee shall not affix, paint or allow to be affixed, painted upon any portion of the permit area any third party advertising device or sign.
15. The permittee shall indemnify and save harmless the Council from all loss and damage occasioned by the negligent use or misuse of any fittings or fixtures placed in the permit area by the permittee.
16. The permittee shall permit and allow the Council by its officers, servants, agents and workmen to enter the permit area at all reasonable times to examine the same and to make such repairs, renewals and alterations as the Council or its delegate shall deem necessary for the safety, preservation or improvement of the same or to exercise any other power, right or remedy of the Council without being liable to recoup the permittee for any inconvenience, loss or damage howsoever arising which may be suffered by the permittee as a consequence thereof.
17. The permittee shall indemnify the Council against all losses, damage and expenses which it may sustain, expend or be put to by reason or on account of any neglect, misconduct or misperformance on the part of the permittee of any of the conditions herein contained and on this part to be performed or by reason or on account of any act, default, misconduct or neglect of any servant, agent, invitee or licensee of the permittee and the permittee shall at all times during the term of this permit use its best endeavours to prevent damage being done to the premises.
18. Save as is otherwise expressly set out in this permit, the permittee shall not conduct or cause or permit or suffer to be conducted on the permit area any betting or games of chance and shall use its best endeavours to prevent any person from betting or taking part in any game of chance on the permit area.
19. The permittee shall not do or permit or suffer to be done within or about the premises anything whereby the policy or policies of insurance of the permit area or any part of the time being subsisting may become void or voidable or whereby the rate of premium thereon may be increased and without prejudice to any other rights or remedies of the Council to pay to the Council all sums paid by way of increased premium and all expenses incurred by it in or about any renewal or continuance of such policy or policies rendered necessary by a breach of this condition.
20. The permittee shall not permit or suffer any person to consume any intoxicating liquor upon the permit area or any part thereof except with the authority of and in accordance with a current licence issued under the *Liquor Act 1912 – 1989*.
21. The permit area shall during the term of this permit be subject to the ordinances of the Council for the time being in force and applicable thereto and the permittee shall during the said term at its own cost and expense conform with the provisions of all statutes, ordinances, bylaws, regulations and rules in force in the City of Brisbane, or relating to the permit area or any part thereof and will forthwith and from time to time comply with and satisfy all notices, orders, requisitions and requirements of all duly constituted Local, Health, Gas or Electric Supply authorities and other Authorities, including Council, the Licensing Commission and any licensing inspector (whether addressed or directed to or served upon or required of the Council or permittee or both of them) received during the said term with respect to the premises or any part thereof and the officers and servants of the Council shall at all reasonable times have full access to the permit area in connection with their official duties.

22. If the permittee shall make default in the observance, performance of fulfilment of any of the conditions, restrictions or provisos whether positive or negative and whether expressed or implied herein and on the part of the permittee to be observed and performed and it, after notice in writing of such default shall have been given by the Council under the hand of the Manager, City Malls to the permittee, the permittee shall fail to remedy such default within the period of time prescribed by such notice or if the permittee shall become bankrupt or assign its estate for the benefit of its creditors or make any compositions with its creditors or bring its estate within the operation of any bankruptcy law for the time being in force in the State of Queensland or elsewhere or if the permittee being a company shall be wound up or shall pass a resolution for winding up shall be presented against the company or if a meeting shall be called for the purpose of considering a resolution for winding up, then and in any of the said cases the Council may (without prejudice to any other rights or remedies against the permittee) by itself or its officers at any time thereafter and notwithstanding the waiver of any previous breach or breaches of the said conditions, restrictions, provisos or reservations terminate the permit, by notice in writing to the permittee either forthwith or as from a date specified in such notice.
23. In the event of the permittee failing to observe, perform, fulfil or keep any of the conditions, restrictions or provisos on its part herein contained and of which the permittee shall have been given notice in accordance with Clause 21 hereof, the Council may at its options and without prejudice to any other rights, remedies and power which it may have, perform or cause to be performed such conditions, restrictions or provisos and all costs, charges and expenses of so doing shall be recoverable by the Council from the permittee and be payable by the permittee to the Council upon demand.
24. The permittee shall indemnify and keep indemnified the Council in respect of any accident howsoever occurring other than through the negligence of the Council, its servants and agents which may occur in connection with the use by the permittee, its agents, employees, licensees, servants and members of the public of any part of the premises and in connection with the use by the permittee, its agents, employees and servants of any installation thereon and to procure and maintain and from time to time and at all times during the term hereof a public liability insurance policy in respect of the permit area (extending nevertheless to any damage to adjoining or nearby premises) covering fire, water or explosions and accident caused or contributed to by the permittee its servants, agents and employees for a sum not less than the sum of Ten Million dollars (\$10,000,000).
25. (a) As security for the due and proper observance and performance of the terms and conditions of the permit herein granted and of the permittee's obligation thereunder, the permittee shall, forthwith upon the granting of the permit, deposit with the Council the sum of \$1,000.00 (One Thousand dollars). In the form of a Cash Deposit or Bank Guarantee in a form approved by the Council.
- (b) The amount so deposited or such part thereof as may in the circumstances be necessary may be used by the Council:
- (i) where a breach of a condition of the permit has occurred and such breach has not been rectified, in the rectification by the Council of that breach;
- (ii) where the damage has been occasioned to any property of the Council or other person by the permittee, its servants, or agents in the carrying out of the business under the permit, in payment of the costs of repair of such damage.
- (c) Subject to subclause (b), upon the surrender or termination of the permit herein granted, any monies deposited with the Council under subclause (a) shall be refunded to the permittee without interest.
26. This permit shall in all respects be interpreted in accordance with the law of the State of Queensland.
27. All permit holders are to ensure staff hold the following licences and qualifications:
- (a) First Aid certificate
- (b) RSA Certificate (for licensed permit holders)
28. Approved permits **can not** be transferred.