



Town of Surfside
9293 Harding Avenue, Surfside, FL 33154
Phone: (305) 861-4863 Fax: (305) 861-1302

Beach Furniture Operator (BFO) Permit Application

(Application Fee must accompany this form)

Hotels: \$500.00; Condos: \$250.00

Applicant/Organization/Business Owner (Corporate Name):

Mailing Address:

City: _____ State: _____ Zip Code: _____

Daytime Phone: _____ Daytime Fax: _____

Name of Contact Person: _____

Contact Person E-mail: _____

Daytime Phone Number of Contact Person: _____

Property Address of Beach Furniture:

Terms and Conditions

- 1) Beach furniture shall not inhibit reasonable access to the public beach, nor obstruct reasonable access on the beach for pedestrians and emergency vehicles, nor impact any native vegetation, nor affect sea turtle nesting areas or other wildlife.
- 2) A Beach Furniture Operator who provides beach furniture must obtain a permit from the Town of Surfside pursuant to the permit process described in Chapter 86 of the Town of Surfside (Attachment "A") and shall comply with the directives from the Town Manager relating to the use of the beach.

3) All BFO permit applications shall include:

- A. An application fee (Hotels: \$500.00; Condos: \$250.00), and proof of payment of the Town of Surfside Local Business Tax, if applicable, and all required licenses or permits from Miami-Dade County, the State of Florida, and federal entities, if applicable, and
- B. A Beach Furniture Operations Plan, including specifications on set-up, storage, staffing, clean-up, and an evacuation plan in the event of a natural disaster such as a tropical storm or a hurricane, specifying an on-property storage area during the natural disaster; and
- C. A signed and sealed survey of the beach furniture operator’s property, which shall depict the dimensions of beach frontage, and
- D. A completed Indemnification and Hold Harmless Agreement.
- E. Proof of insurance requirements pursuant to Chapter 86-32 of the Town of Surfside Code.

4) By signing this Beach Furniture Permit Application, I affirm that I have read the above Terms and Conditions, Chapter 86 of the Town of Surfside Code (Attachment “A”) and shall comply with all directives of the Town Manager as related to the beach, and agree to follow and abide by the same.

Signature of Applicant for the
Organization/Business Owner

Date

Sworn to and subscribed before me this _____ day of _____, 20____,
by _____, who is personally known to me or who produced the
following identification: _____

(Seal below)

Notary Public, State of _____

For Office Use Only:

Approval: Yes No With Conditions
Comments:

By: _____
Town Manager

Date

Prepared By:

Lillian M. Arango, Esq.
Town Attorney
Weiss Serota Helfman Cole & Bierman, P.L
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, Florida 33134

**BEACH FURNITURE OPERATOR’S INDEMNIFICATION AND
HOLD HARMLESS AGREEMENT**

THIS BEACH FURNITURE OPERATOR’S INDEMNIFICATION AND HOLD HARMLESS AGREEMENT (this “Agreement”) is made and entered this _____ day of _____, 20____, by and between _____, whose mailing address is _____, hereinafter referred to as "Beach Furniture Operator” or “BFO”, and the Town of Surfside, a Florida municipal corporation, hereinafter referred to as “Town.”

RECITALS

WHEREAS, BFO is the fee simple owner(s) of certain real property located within the Town of Surfside, Miami Dade County, Florida with a property address of _____, Surfside, Florida and more particularly described as _____

(insert the full legal description for the property as maintained by the Miami-Dade County Property Appraiser's Office. See www.miamidade.gov for more information); and

WHEREAS, BFO has applied for a beach furniture operator permit with the Town of Surfside pursuant to Division 1., Article II (Public Beaches), of Chapter 86 (Waterways), of the Town Code of Ordinances, for a beach furniture operator permit on the public beach; and

WHEREAS, Section 86-36 of the Town Code requires that the BFO indemnify, defend, save and hold harmless the Town, its officers and employees, from an and all claims, liability, lawsuits, damages, and causes of action which may arise out of the permit or the beach furniture operator’s activities on the public beach; and

WHEREAS, the Town is willing to issue a beach furniture operator permit to BFO and allow BFO to conduct the beach furniture operator activities on the public beach, in compliance with Division 1., Article II (Public Beaches), of Chapter 86 (Waterways), of the Town Code of Ordinances and the Administrative Policy, as may be amended from time to time, subject to the provisions of this Agreement, and without prejudice to the Town’s right to have the beach furniture operations terminated and furniture removed from the public beach, at the BFO’s expense.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and as further consideration for the Town approving BFO's beach furniture operations permit, and for other good and adequate consideration, the sufficiency of which is hereby acknowledged by the Parties hereto, the Parties agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein as if repeated in their entirety.

2. To the fullest extent permitted by applicable Laws and Regulations, BFO hereby agree(s) to defend, indemnify, save and hold harmless the Town and its commissioners, managers, directors, attorneys, appointed officials, administrators, consultants, agents, and employees from and against all claims, liability, lawsuits, damages, losses, causes of action, and expenses direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitration costs) arising out of or resulting from the beach furniture permit issued to the BFO and the BFO's operations or activities on the public beach, caused, in whole or in part, by any willful, intentional, reckless, or negligent or other act and/or omission of BFO or any person, employee, agent, or third party acting on BFO's behalf (including any contractor, subcontractor, or any person or organization directly or indirectly employed by any of them or anyone for whose acts any of them may be liable).

3. In any and all claims against the Town or any of its consultants, agents, or employees by any employee of BFO or any employee of any person, employee, agent, or third party acting on BFO's behalf (including contractors, subcontractors, or any person or organization directly or indirectly employed by any of them or anyone for whose acts any of them may be liable), the indemnification obligation under the above Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for BFO or by or for any person, employee, agent, or third party acting on BFO's behalf (including contractors, subcontractors, or other persons or organizations directly or indirectly employed by any of them or anyone for whose acts any of them may be liable) under workers' or workman's compensation acts, disability benefit acts, other employee benefit acts or any other service of law. Moreover, nothing in this Indemnification and Hold Harmless provision shall be considered to increase or otherwise waive any limits of liability or to waive any sovereign immunity in favor of the Town established by Florida Statutes, case law, or any other source of law. This indemnification provision shall survive the termination of any Town issued beach furniture permit or agreement with the Town, however terminated. Nothing contained herein shall be construed as a waiver of any immunity or limitation of liability the Town may have under the doctrine of sovereign immunity in Section 768.28, Florida Statutes. Inclusive in this indemnity provision is the agreement to fully indemnify the Town of Surfside from any claims or actions alleged to have been caused by the Town's acts or omissions. BFO shall maintain insurance, which will provide for the indemnity provision provided herein.

4. For the purposes of this Agreement, and as required by Section 86-32, of Division 1., Article II (Public Beaches), of Chapter 86 (Waterways), of the Town Code of Ordinances, BFO shall obtain and maintain throughout the entire beach furniture permit period (and any renewal permits or periods), insurance policies naming the Town as an additional insured on a primary and

non-contributory basis and BFO shall evidence this insurance to the Town in accordance with the parameters and instructions outlined within Section 86-32 of the Town Code of Ordinances. Evidence of insurance will not be approved unless all of the requirements have been met to the satisfaction of the Town. Moreover, said insurance shall be maintained until the beach furniture permit issued to BFO is expired or terminated and beach furniture operations cease on the public beach, and failure to maintain such insurance shall constitute a material breach of this Agreement that may result in the Town requiring cancellation of any Town issued beach furniture operations permit, termination of all beach furniture operations on the public beach and removal of all beach furniture from the public beach, at BFO's sole expense,

5. All individuals signing this Agreement have the legal authority and capacity to enter into this Agreement and bind the BFO.

6. As further part of this Agreement, it is hereby understood and agreed that any official inspector or code compliance officer of the Town of Surfside, or its agents duly authorized, may have the privilege at any time during normal working hours to enter and inspect the beach furniture operations on the public beach or on the BFO's premises to determine whether the requirements of the Town's Code of Ordinances, the Administrative Policy, and all regulations and conditions herein agreed to are fully complied with.

7. This Agreement may be recorded at the option of the Town, at BFO's sole expense, and shall inure to the benefit of and be binding upon BFO's successors, heirs, executors, administrators, representatives, assigns, and all other persons or entities acquiring an interest thereunder.

8. In the event the terms of this Agreement are not being complied with, in addition to other remedies available, the Town is hereby authorized to withhold approval or renewals of the beach furniture permit, any further permits, and to refuse to make any inspections or grant any approvals on the premises until such time as there is full compliance with this Agreement.

9. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida and all applicable and duly adopted ordinances, regulations, and policies of Miami-Dade County and the Town now in effect, as may be amended from time to time, and those hereinafter adopted.

10. The location for settlement of any claims, controversies, disputes, arising out of or relating, directly or indirectly, to any part of this Agreement or any breach hereof, shall be in Miami-Dade County, Florida.

11. BFO agrees that he/she shall be liable for reasonable attorney's fees and costs incurred by the Town, if the Town is required to take any actions, through litigation or otherwise, to enforce this Agreement.

12. Town, shall be entitled as a matter of right to an injunction issued by any court of competent jurisdiction restraining any violation of this Agreement as well as recovery of any and

all costs and expenses sustained or incurred by Town in obtaining such an injunction including, without limitation, reasonable attorney's fees and costs.

13. This Agreement constitutes the entire Agreement between the Parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Any amendments to or waivers of the provisions contained herein shall be made by the Parties in writing.

14. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portions hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first written above.

AS TO BEACH FURNITURE OPERATOR(S):

Signature

Print Name & Title (if applicable)

Print Name & Title (if applicable)

Date Executed: _____

Notarization of BFO's Execution

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ___ day of _____, in the year 20___, by _____, as _____ (Title), of _____ (Beach Furniture Operator) who is/are personally known to me or has/have produced _____ as identification.

My Commission Expires:

Notary Public, State of Florida

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Town Attorney
Weiss Serota Helfman Cole & Bierman, P.L.