

City of Melbourne



Planning and Economic Development
900 E. Strawbridge Ave. • Melbourne, FL 32901 • Fax (321) 608-7519
Phone (321) 608-7500 • E-Mail: p&z@melbourneflorida.org • Internet: melbourneflorida.org

APPLICATION FOR SIDEWALK USE PERMIT

DATE RECEIVED: _____

PERMIT NO: _____

This Outdoor Permit review application must be completed and returned with all attachments referenced in items below to the Planning and Economic Development Department of the City of Melbourne, Florida. All applications shall comply with City Ordinance No. 2010-22, in accordance with Appendix B, Article VII, of the City Code of Melbourne, Florida. **A review fee of \$30.00 is due upon application submittal.** Checks may be made payable to the City Of Melbourne.

(Please Print)

1. APPLICANT
NAME: _____
CONTACT PERSON (If Corporation): _____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
TELEPHONE: _____ FAX: _____
E-MAIL
ADDRESS: _____
2. BUSINESS NAME: _____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
TELEPHONE: _____ FAX: _____
E-MAIL
ADDRESS: _____
3. OWNER OF PROPERTY: _____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
TELEPHONE: _____ FAX: _____
E-MAIL ADDRESS: _____
4. STATEMENT OF
INTENT FOR USE: _____
(Dining, Display, or Both)

5. THE FOLLOWING ITEMS ARE NEEDED TO COMPLETE THIS APPLICATION FOR REVIEW:

- a. _____ A plan drawn in Engineering or Architectural Scale, showing the layout and dimensions of the existing area and adjacent properties; proposed location, size and number of tables, chairs, merchandise displays, trees, benches, fire hydrants, doorways and any other obstruction within the sidewalk or pedestrian area.
- b. _____ Copy of State ABT License (if applicable), including sketch of licensed area.
- c. _____ Copy of Current Business Tax Receipt for Business.
- d. _____ Photos, drawings, or manufacturers' brochures describing the appearance of *all* objects intended to be located within the sidewalk.
- e. _____ A Certificate of Insurance showing the applicant's business as the insured and showing Commercial General Liability insurance in force of no less than \$1,000,000 per occurrence along with the Policy Endorsement Page showing that the City of Melbourne has been added as an additional named insured on the policy.

_____ If alcohol is to be served in the permit area, a Certificate of Insurance showing Liquor Liability Insurance in force of no less than \$1,000,000 per occurrence along with the Policy Endorsement Page showing that the City of Melbourne has been added as an additional named insured on the policy.

_____ A Certificate of Insurance showing Workers' Compensation and Employer's Liability Insurance as required by federal, state, and local laws and regulations."
- f. _____ Affidavit of Ownership, or written authorization from the property owner consenting to the application.
- g. _____ Submittal Review Fee (All applicants) \$30.00

7. THE FOLLOWING FEES ARE PAYABLE UPON SIDEWALK USE PERMIT APPROVAL:

_____ Sidewalk Use Permit	\$100.00 (annually) After October 1, 2011
_____ Seating Cost for Outdoor Dining (if applicable)	\$25.00/seat (annually) After October 1, 2011

SEE "ATTACHMENT A" FOR REVIEW CRITERIA AND PERMIT CONDITIONS

_____ I AM THE OWNER (Attach Affidavit of Ownership)

_____ I AM THE LEGAL REPRESENTATIVE OF THE OWNER (Attach Authorization to Represent) of the property described, which is the subject of matter of this application.

_____ I HAVE BEEN PROVIDED THE STANDARDS AND CRITERIA list utilized in the review of
Initials this application; furthermore, I have received the conditions and requirements that must be adhered to in order to obtain and retain any permit issued under this application. In applying for an outdoor display or seating permit, I understand that the City may also revoke any permit issued under this application, particularly if multiple violations occur for failure to adhere to the requirements. **The sidewalk use permit holder shall indemnify, defend, save, and hold harmless the City, its officers, and employees from any and all claims, liability, lawsuits, damages and causes of action which may arise out of the permit or the permit holder's activity on the right-of-way.** Under penalties of perjury, I declare that I have read the foregoing application and that all the answers to the questions in said application and all sketches and data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief. I understand that by signing this document, I am giving the City or agent thereof the authority to duplicate, disseminate, and reproduce any and all items submitted as part of this request, whether copyrighted or not.

Please submit review fee in **CASH or CHECK** drawn to the order of the City of Melbourne.

_____ DATE _____ SIGNATURE OF APPLICANT _____

SWORN TO AND SUBSCRIBED BEFORE ME this ____ day of _____, 20 ____ By _____
(Applicant)
who is personally known to me or produced _____ I.D. and did take an oath.

My commission expires: _____
_____ NOTARY PUBLIC, State of Florida at Large

This application must be completed and returned to the Planning and Economic Development Department with all the required exhibits. The Planning and Economic Development Department staff and other applicable City departments will then review the application. If photographs, documents, maps or other materials are provided to the Planning and Economic Development Department as part of the application, the Secretary must retain these instruments. By law those instruments become public record and cannot be returned to you (copies of the original can be made).

AFFIDAVIT OF OWNERSHIP

STATE OF FLORIDA
COUNTY OF BREVARD

_____, being duly sworn depose and say that I am the owner in fee of all that certain piece of parcel of land situated and lying within the City of Melbourne, in the County of _____, and the State of _____, aforesaid, and known and designated as _____

_____.

Affiant

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, 20____, by _____
_____ who is personally known to me or produced _____
I.D. and did take an oath.

Notary Public
My Commission Expires:

AUTHORIZATION TO REPRESENT

I, _____, owner of the following described property:

PROPERTY ADDRESS: _____, hereby authorize the following named individual to apply on my behalf for an Outdoor Display and/or Outdoor Seating Permit as provided for in Appendix B, Article VII, of the City Code of Melbourne, Florida.

AUTHORIZED REPRESENTATIVE: _____

BY: _____
PROPERTY OWNER

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ who is personally known to me, or who has produced _____ as identification and who did (did not) take an oath.

Notary Public
My Commission Expires:

(Retain for your records)
ATTACHMENT A

(e) Standards and criteria for application review.

1. Outdoor display or seating areas are only permitted as an accessory use to a business with a business tax receipt on the same site, and the merchandise or services displayed must be vended by said business.
2. A minimum five (5) foot wide sidewalk must remain fully accessible within the right-of-way in accordance with ADA requirements including areas that are partially in the right-of-way. The five (5) foot area must be maintained at all times as clear unobstructed pedestrian path. Outdoor display or seating areas may not be placed within five (5) feet of a pedestrian crosswalk, handicap corner curb cut, bus stop, fire hydrant, alley, or building entrance/exit.
3. Umbrellas and other decorative materials shall be fire retardant or manufactured of fire resistant material and shall comply with applicable building and fire codes. The lowest part of the umbrella top must be a minimum of seven (7) feet above the sidewalk.
4. There shall be no display of merchandise, tangible property, or seating areas located in any parking or landscape areas on public or private property. Displays and seating must be located on a solid paved or paved surface, e.g., concrete, asphalt, brick or concrete pavers.
5. There shall be no display of merchandise, tangible property, or seating areas that would obstruct pedestrians or the vision of motor vehicle operators or create a traffic hazard.
6. A maximum of one, contiguous twenty-five (25) square feet of area may be used for an outdoor display area.
7. A maximum of one hundred (100) percent of the lineal frontage abutting a right-of-way may be used for an outdoor seating area. The depth of the outdoor seating area will be determined by the average depth of one table with seating.
8. Merchandise or tangible property may not be stacked in an outdoor display area. Merchandise displayed on a rack will not constitute stacking.
9. Advertisement and signage shall not be permitted in an outdoor display or seating area.
10. Landscape materials, not for sale, shall be exempt from a permit, however, must comply with all other standards and criteria.
11. Proper site distances will be part of the review for pedestrian and vehicular safety.
12. Whenever practicable, outdoor seating must be located adjacent to the building. Exceptions will be considered on a case by case basis if an alternative location provides enhanced safety or accessibility.
13. Additional criteria that will be reviewed for Outdoor Seating:
 - a. All furniture shall also maintain a minimum of twenty-four (24) inches of clearance from the curb/edge of pavement.
 - b. Wait staff shall have a minimum of twenty-four (24) inches from the edge of the table or the back of the chairs (or table supports, whichever protrudes further).
 - c. A minimum of nineteen (19) inches from the edge of the table is required for an occupied chair.

(f) Application approval; issuance of permit; conditions; transfer; variances.

1. Once an applicant has submitted all required documents, met all conditions, and staff concurs with the issuance of a permit, the director shall issue an on-site permit or a sidewalk use permit. The sidewalk use permit shall be valid for one year (October 1 through September 30).
2. Special conditions may be imposed on a permit including, but not limited to:
 - a. The hours of operation of outdoor display or outdoor seating areas are limited to the legal hours of operation of the business holding the permit ("permit holder").

- b. Alcoholic beverages may be served or consumed in an outdoor seating area provided that the permit holder holds the appropriate license from the state and/or the city to serve alcoholic beverages. The proposed area must comply with State of Florida ABT requirements.
 - c. Only the items specifically shown on the approved application and not otherwise prohibited may be allowed in the permit area. The permit area may not be used to store food, beverages, chairs, tables, dishes, flatware, or other items.
 - d. The city may require the temporary removal of outdoor display and outdoor seating areas from the public right-of-way during street, sidewalk or utility repairs, or during emergency situations.
 - e. Upon the issuance of a hurricane or high wind warning, the permit holder shall immediately remove all items from the right-of-way.
 - f. Umbrellas or similar fixtures that are sensitive to windy conditions must be sufficiently weighted to prevent movement.
 - g. The use of public sidewalks for outdoor display and outdoor seating areas may be temporarily revoked by the city when it has been determined that the number of pedestrians using the public sidewalk may be too great to allow any obstruction, e.g., parade, art festival, street festival.
 - h. Tables, chairs or other fixtures may not be attached, chained, or in any manner affixed to any tree, post, sign, or other fixture within the public right-of-way.
 - i. The permit area within the public right-of-way may not contain signage which would otherwise require a sign permit under the code or be prohibited by the code.
 - j. The permit shall be specifically limited to the area as approved on the permit.
 - k. All objects associated with the permit must be maintained in a clean and attractive appearance and shall be in good repair at all times. The area covered by the permit shall be maintained in a neat, clean and orderly appearance at all times by the permit holder. There shall be no illicit discharge into the City's storm water system.
 - l. The permit holder must inspect the permit area and the area immediately adjacent to the permit area daily for hazardous conditions. The permit holder must notify the city in writing immediately of any hazardous conditions.
 - m. Cooking facilities are prohibited within the permit area. All food or drinks served within the permit area shall be prepared inside the building associated with the permit.
 - n. No outdoor seating areas within the public right-of-way authorized by this section shall be used for calculating seating requirements pertaining to applications for or issuance of an alcoholic beverage license; nor shall the outdoor seating area be used as the basis for computing required seating for restaurants and dining rooms, or as grounds for claiming exemption from such requirements under the provisions of any city ordinance or state law.
3. A permit may be transferred to a new owner for the location listed on the permit under the following conditions:
 - a. The current permit holder must provide a written request to the department.
 - b. The transferred permit shall be valid only for the remainder of the period for which it was originally issued.
 - c. The new permit holder must comply with the insurance and liability provisions of this section and agree in writing to the conditions of the permit.
 - d. Permits issued under this section of code are non-transferable to another site.
 4. Variances shall not be granted to the provisions of a sidewalk use permit.