



City of Henderson Sidewalk Dining Permit Checklist

All of the following information is required and must be marked as indicated and submitted with a completed Sidewalk Dining Permit Application and applicable fees.

<input type="checkbox"/>	Exhibit A	-	Occupational License-attach a copy of the business occupational license
<input type="checkbox"/>	Exhibit A-1	-	Alcoholic Beverage Control License(s), if applicable-attach copies of all applicable local and state alcoholic beverage licenses
<input type="checkbox"/>	Exhibit B	-	Site Plan-scale drawing with proposed outdoor dining area dimensions clearly indicated, including total sidewalk width, unobstructed sidewalk space for pedestrian use, and placement of all tables, chairs, umbrellas, and other allowable fixtures.
<input type="checkbox"/>	Exhibit C	-	Furniture and Fixtures-photos, drawings or other graphic representations, including size, shape, color and type of materials, of all furniture, umbrellas and other allowable fixtures
<input type="checkbox"/>	Exhibit D	-	Insurance Policies-copies of all comprehensive general liability, worker's compensation, and liquor liability, if applicable, insurance policies with evidence of premium payment relating to the Permitted sidewalk dining area.
<input type="checkbox"/>	Exhibit E	-	Certificate of Insurance-General Liability
<input type="checkbox"/>	Exhibit E-1	-	Certificate of Insurance-Liquor Liability, if applicable
<input type="checkbox"/>	Exhibit F	-	Certification of Ownership from lessee's landlord, if applicable

<input type="checkbox"/>	\$50.00 Annual Fee Ck#: _____ Date: _____	<input type="checkbox"/>	Square Footage Fee Ck#: _____ Date: _____	<i>Submitted upon approval of the permit plan</i>
--------------------------	--	--------------------------	--	---

NOTE: Submittal of an Application is not an approval to set up a Sidewalk Dining Facility. If you have questions regarding the Application or the application process, please contact the City Manager's office at 270-831-1290 x 2202.



City of Henderson Sidewalk Dining Permit Application

Submit application to:
City Manager's Office,
222 First Street,
P. O. Box 716,
Henderson, KY 42419

No permit shall be issued to an applicant that is not current on obligations to the city, including, but not limited to, taxes, loans, liens, or unremediated violations of the city building or nuisance codes.

<input type="checkbox"/>	New – Application for Sidewalk Dining
<input type="checkbox"/>	Renewal – Application for Sidewalk Dining

APPLICANT INFORMATION

Business Name:							
Location Address:							
Primary Contact:							
The Primary Contact is the person who is to be contacted regarding the application.							
Address:				Email Address:			
City:			State:		Zip Code:		
Phone: Please list the Primary Contact's phone numbers.		Day:			Cell :		
		Night:			Fax:		

PROPERTY OWNER INFORMATION

Property owner information (if different from above)							
Owner's Name:							
Corporation Name:							
Address:				Email Address:			
City:			State:		Zip Code:		
Phone:		Day:			Other:		

LICENSES

<input type="checkbox"/>	A copy of the Occupational License must be submitted with this application.
<input type="checkbox"/>	If applicable, attach copies of all Alcoholic Beverage Control Licenses issued for the business

ENCROACHMENT INFORMATION

Zoning Classification:	<input type="checkbox"/>	Riverfront 2	<input type="checkbox"/>	Central Business District
Paved Sidewalk Width Adjacent to Building (not including decorative pavers):				
Number of Outdoor Tables:		Number of Outdoor Seats:		
Proposed Hours for Outdoor Dining:				
Will Liquor be Sold?	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes If Yes, appropriate Liquor Licenses and Liquor Liability Insurance must be obtained
Total Square Footage of Proposed Seating Area:				

ENCROACHMENT SITE PLAN

One original and one copy of a map or diagram drawn to scale depicting the number, type and dimensions of tables, seating and other fixtures must be submitted with this application. The map shall illustrate the width of the sidewalk and specifically the location of all seating, tables, umbrellas, planters or other fixtures and ingress/egress points to the building. There must be a minimum of four feet of unobstructed paved sidewalk from the outer contiguous boundary of the Permitted area.

The City will establish permanent marks in the sidewalk to delineate the boundaries of the permit

DETAILED FURNITURE INFORMATION

Photos, drawings or other graphic representation, including color and material, of all furniture, umbrellas and other fixtures must be submitted with this application.

INSURANCE POLICIES

Attach copies of all comprehensive general liability and liquor liability, if applicable, insurance policies with evidence of premium payment. The applicant shall deliver to the city at least ten days prior to the expiration of such policy, evidence that it has been renewed. All policies of insurance carried hereunder shall provide that they cannot be canceled without giving at least ten days prior written notice to the City and shall be written by insurance companies licensed by the commonwealth of Kentucky and reasonably satisfactory to the city. Insurance carried by a business in connection with this section shall contain a clause waiving any claim by the insurance company for subrogation against the city.

GENERAL LIABILITY CERTIFICATE OF INSURANCE

Attach a copy of a Certificate of Insurance* with the City of Henderson named as additional insured. The business shall obtain and maintain comprehensive general liability insurance, protecting against all claims for personal injury, death or property damage occurring upon, in or about the premises resulting from the use of occupancy thereof, with a minimum of \$1,000,000.00 (one million dollars) in coverage and limits acceptable to the city for the entire term of the Sidewalk Dining Permit.

LIQUOR LIABILITY CERTIFICATE OF INSURANCE

If Alcohol is Served

Attach a copy of a Certificate of Insurance* with the City of Henderson named as additional insured. The business shall obtain and maintain liquor liability insurance, with a minimum of \$1,000,000.00 (one million dollars) in coverage and limits acceptable to the city for the entire term of the Sidewalk Dining Permit.

CERTIFICATIONS

Applicant certifies ownership of the property abutting the sidewalk;

OR

Certification of ownership from the lessee's landlord must be submitted.

Applicant certifies that defects in the sidewalk will be reported to the Public Works department in a timely manner.

The business certifies that the right-of-way on which tables and seating are placed, including sidewalks and abutting curbs and gutters, will be cleaned of all litter and debris each night after outdoor service is finished.

The business shall maintain the encroached premises in an orderly fashion, including requiring that all persons within the business premises behave in an orderly fashion and not generate excessive noise.

This requirement shall be strictly enforced.

The business certifies that it shall operate sidewalk dining not earlier than 7:00 a.m. and that all operations in outdoor dining must cease and be vacated by 10:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday..

ADDITIONAL CERTIFICATIONS

- Business shall ensure that no part of the right-of-way, sidewalk or curb is damaged by their outdoor seating, including prevention of stains on sidewalks and curbs caused by the seating. Business shall refrain from using any harsh or damaging chemicals to clean any stamped concrete sidewalks or surfaces upon which tables or seating is placed. Business further agrees that any damage caused to the right-of-way, sidewalk or curb by the business seating will be repaired or repair costs reimbursed by the business.
- The business shall maintain the right-of-way used for outdoor dining during the winter months (November through March), including cleaning the paved surface, and shall ensure that all seating is removed from the sidewalk during these months when not in use.
- The business certifies that no alcoholic beverages shall be served or consumed on the public sidewalk, unless the portion of the public sidewalk where the permitted tables and seating are located is included in the "Encroached premises" for a business liquor by the drink restaurant, tavern, or dining facility as approved by the City Alcoholic Beverage Control Administrator and the state Department of Alcoholic Beverage Control or otherwise allowed by law and the Encroachment holder enters into a separate Encroachment agreement with the city.

FEES

Annual Application Fee*:						\$50.00
Square Foot Fee**:	Sq. Ft.:		X	\$0.50	=	
Total Fees:	(Permit not issued until all fees are paid)					\$
<small>*Submit non-refundable application fee with the Application Packet **Submit Square Foot Fee once notified of Site Plan approval</small>						

REQUIRED SIGNATURE AND NOTARY

Hold Harmless and Indemnification Provision: In consideration of this permit, the Applicant hereby agrees that it shall indemnify, hold harmless and defend the City of Henderson, including its elected and appointed employees, agents, and successors in interest from all and against claims (including but not limited to the foregoing, workers' compensation and death claims), damages, demand for subrogation, losses, and/or expenses, including attorneys' fees arising out of or resulting directly or indirectly from the Applicant's (or the Applicant's employees, customers, or agents, including subcontractor's) use of the Encroachment provided that such claim damage, loss or expense is 1) attributable to personal injury, bodily injury, sickness, death or injury to or destruction of property including the loss of use resulting therefrom or breach of contract and 2) not caused by the willful act or misconduct or gross negligence of the City of Henderson, its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this encroachment Application.

Further, Applicant agrees that it is obligated to reimburse the City of Henderson, including its elected officials, and appointed officials, and employees, and successors in interest for all attorney's fees incurred by the City to enforce the terms of this Hold Harmless Provision or to defend the City of Henderson, including its elected officials, appointed employees, and successors in interest against any claim.

Continued to Page 4



City of Henderson Sidewalk Dining Permit Application

New – Application for Sidewalk Dining

Renewal – Application for Sidewalk Dining

Business Name: _____

OFFICE USE ONLY

Liquor Sales _____ Yes _____ No

- Attached Exhibits _____ Exhibit A – Occupational License
 _____ Exhibit A-1 – Alcoholic Beverage Control Licenses, if applicable
 _____ Exhibit B – Site Plan (1 original and 1 copy)
 _____ Exhibit C – Furniture and Fixtures Plan
 _____ Exhibit D – Insurance Policies
 _____ Exhibit E – General Liability Certificate of Insurance
 _____ Exhibit E-1 – Liquor Liability Certificate of Insurance, if applicable
 _____ Exhibit F – Lessee’s Landlord Certificate of Ownership, if applicable

Annual Application Fee: _____ \$50 Annual Application Fee Date: _____ Ck#: _____

Code Department Site Plan Review:

_____ Exhibit B – Site Plan _____ Exhibit C – Furniture and Fixtures Plan

Review Date: _____ By: _____

_____ Approved _____ Denied _____ Conditionally Approved

Terms of Conditional Approval:

By: _____ Title: _____ Date: _____

Annual Square Foot Fee:

_____ Square Foot Fee Date: _____ Ck#: _____

Date Final Encroachment Permit Issued: _____



City of Henderson Sidewalk Dining Permit

Property Owner Consent

(NOTE: THIS IS NOT A LICENSE.)

The owner or management of the premises where you plan to operate your sidewalk dining facility must complete this form.

I, _____, _____
Name of landlord/property owner (please print)

authorize _____,
Sidewalk Dining Permit Primary Contact Person

to operate Sidewalk Dining for _____
Name of Business

adjacent to my property located at the address _____
property address and street

The Sidewalk Dining Permit holder is required to comply with all applicable sections of City, County, and State code. Failure to do so may cause the permit for said location to be revoked. If at any time the permit expires or is revoked, this consent shall be void.

This consent shall run concurrent with the Sidewalk Dining Permit while I am the landlord/property owner. Such consent may only be terminated for purposes of license renewal. Written revocation must be submitted to:

City of Henderson
City Manager's Office
Sidewalk Dining
P. O. Box 716
Henderson, KY 42419-0716

The Landlord/Property Owner hereby agrees that it shall indemnify, hold harmless and defend the City of Henderson, including its elected and appointed officials, employees, agents, and successors in interest from and against any and all claims (including but not limited to the foregoing, workers' compensation and death claims), damages, demand for subrogation, losses, and/or expenses, including attorneys' fees arising out of or resulting directly or indirectly from the Lessee's (or the Lessee's employees, customers, or agents, including subcontractor's) use of the Encroachment provided that such claim damage, loss or expense is 1) attributable to personal injury, bodily injury, sickness, death or injury to or destruction of property including the loss of use resulting therefrom or breach of contract and 2) not caused by the willful act or misconduct or gross negligence of the City of Henderson, its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of the encroachment Permit to the Lessee.

I further do hereby certify that the information furnished by me is true and correct. I understand that if any of the foregoing information changes during the course of the Permit year (April 1st – October 31st), I will notify the City, in writing, within thirty (30) days of such change.

Property Owner Signature: _____ Date: _____

Signatory Name (print): _____

Company: _____

Phone: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Official Seal

State of _____

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by
_____.

Notary Signature

My Commission Expires: _____

(Serial number: _____)

City of Henderson, Kentucky

Outdoor Dining On Public Sidewalks Standards and Procedures

Sidewalk Dining Permit

January 2014

Section 1: Purpose & Background

1.1 Purpose.

These guidelines provide standards for the use of public sidewalk space within the Henderson Central Business District or in Riverfront Zone RF-2, hereinafter collectively referred to as “Permitted Districts,” in order to maintain a quality appearance in keeping with the Permitted Districts’ character.

The City of Henderson permits outdoor dining within the Permitted Districts only, through an administrative permitting process authorized by Chapter 20 (section 20-9) of the City of Henderson Code of Ordinances. The Applicant must obtain right-of-way encroachment approval from the City Manager to ensure compliance with the adopted ordinance and other applicable sign and zoning regulations. This document contains the guidelines of furniture and fixtures considered acceptable within the character of the Permitted Districts.

Central to the process of permitting outdoor dining within the Permitted Districts is the necessity of ensuring that furniture and other items placed along the street will complement the overall character of the district and not detract from the Permitted Districts’ character and integrity. These Design Guidelines provide standards for the use of outdoor dining areas in order to enhance the historic character, visual quality, and pedestrian safety of the area.

These guidelines apply to all outdoor dining areas that receive City approval through powers granted by the Henderson Code of Ordinances. Failure to comply with these guidelines constitutes a violation of this ordinance and may revoke the right-of-way encroachment permit.

1.2 Background.

Outdoor dining gives restaurant patrons an amenity that has become an increasingly popular feature. The City of Henderson is pleased to offer restaurants within the Permitted Districts only, the option of utilizing the public sidewalk space as outdoor dining areas.

While the City has encouraged the use of public sidewalk space, restaurant operators must be mindful of two important considerations: (1) the safety and flow of pedestrian traffic; and (2) the visual appropriateness within the Permitted Districts. These Design Guidelines are intended to ensure that restaurant operators use the public sidewalk space in a way that is safe for pedestrians and appropriate for the Permitted Districts.

Section 2: Application Procedure and Submittal Requirements

2.1 Application Procedure.

Outdoor dining is permitted only within the Permitted Districts through a design review and approval process authorized by Chapter 20 (section 20-9) of the City of Henderson Code of Ordinances and Zoning regulations. This process saves time and expense by pre-establishing standards that must be followed for all outdoor dining set-ups.

For forms, information or questions, you may contact the City Manager's Executive Assistant in the City's Administration Department by phone at (270) 831-1290, extension 2202, by email at citymanager@cityofhendersonky.org, in person on the third floor of the Henderson Municipal Center located at 222 First Street, Henderson, or by visiting the City's website at www.cityofhendersonky.org.

2.2 Submittal Requirements. To apply, a restaurant operator needs to submit the following:

2.2.1 Right-of-Way Encroachment Permit Application: An application form providing owner/operator and property information and detailed project description;

2.2.2 Site Plan: A plan, drawn to scale, showing the proposed outdoor dining area with measurements, including a representation showing that at least four (4) feet of unobstructed sidewalk space adjacent to the pavers or back of curve;

2.2.3 Photos or Drawings of Furniture: Photos or other graphic representation, including color and material, of furniture and umbrellas;

2.2.4 Insurance: Certificate(s) of insurance in the amount required by the right-of-way encroachment permit application; and

2.2.5 Approval to serve alcohol pursuant to Section 4, if applicable.

Section 3: Elements of a Quality Outdoor Seating Area

3.1 Barriers. Dining area barriers (fences, gates, ropes, etc.) shall not be permitted, unless otherwise required by the City of Henderson.

3.2. Planters. Planters may be used to provide added visual interest and create a more attractive and welcoming atmosphere. Planters and the plants contained within them must meet the following requirements:

- 3.2.1. Maximum Height of Planters: Planters may not exceed a height of thirty-six (36) inches above the level of the sidewalk. Maximum height applies only to planters, not the plants contained therein.
 - 3.2.2. Maximum Height of Plants: Plants, whether live or artificial, may not exceed a height of eight (8) feet above the level of the sidewalk.
 - 3.2.3. Planted Material: All planters must have plants contained within them. If the plants within a planter die, the plants must be replaced or the planter removed from the public right-of-way. Empty planters or planters with only bare dirt, mulch, straw, woodchips or similar material are not permitted.
- 3.3. Furniture and Fixtures. The viability of the Permitted Districts depends on maintaining an attractive atmosphere. Outdoor dining furniture becomes a prominent part of the streetscape when used in the front of buildings, and such furniture needs to uphold the standards that have been created in the Permitted Districts. All furniture and fixtures must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion, or chipped or peeling paint. All furniture and fixtures must be maintained in a clean condition at all times. All furniture and fixtures must be durable and of sufficiently sturdy construction as not to blow over with normal winds. To ensure a quality visual appearance in keeping with the context of the Permitted Districts, the conditions of the following pages apply to furniture and fixtures:
- 3.3.1 Types of Furniture.
 - 3.3.1.1 Prohibited Furniture: All furniture, other than tables, chairs, and umbrellas, is prohibited. This includes, but is not limited to, serving stations, bar counters, shelves, racks, sofas, televisions, trash receptacles, heaters and torches.
 - 3.3.1.2 Freestanding Furniture: Furniture and fixtures must not be secured to trees, lampposts, street signs, hydrants, or any other street infrastructure by means of ropes, chains or any other such devices, whether during restaurant operating hours or at times when the restaurant is closed.
 - 3.3.2 Tables. Tables need to be functional not only for patrons, but also for pedestrians, given the limited public sidewalk space available for outdoor dining in the Permitted Districts. Outdoor dining furniture must also contribute to the overall atmosphere of the Permitted Districts and be complementary in both appearance and quality.

- 3.3.2.1 Color: Tables may be colored or of a natural unpainted material (i.e., wood, metal, etc.). Tables are not permitted to be white plastic or of any fluorescent or other strikingly bright or vivid color.
- 3.3.3 Chairs. Chairs, like other outdoor dining elements, must contribute to the overall atmosphere of the Permitted Districts and must be complementary in both appearance and quality.
- 3.3.3.1 Color: Chairs may be colored or of a natural unpainted material (i.e., wood, metal, etc.). Chairs are not permitted to be white plastic or of any fluorescent or other strikingly bright or vivid color.
- 3.3.3.2 Upholstery: Upholstered chairs are permitted. Upholstery is not permitted to be of any fluorescent or other strikingly bright or vivid color.
- 3.3.3.3 Matching: All chairs used within a particular establishment's outdoor seating area must match each other by being of visually similar design, construction and color.
- 3.3.4 Umbrellas. Umbrellas can add a welcoming feel to outdoor dining areas and provide shelter from the elements, making their use desirable for outdoor dining applications. Appropriately designed and sized umbrellas are permitted for use under this outdoor dining program. Umbrellas must be free of advertisements and contained within the outdoor dining area, and the lowest dimension of an extended umbrella must be at least seven (7) feet above the sidewalk surface. All umbrellas must comply with the following conditions:
- 3.3.4.1 Contained within the Outdoor Seating Area: To ensure effective pedestrian flow, all parts of any umbrella (including the fabric and supporting ribs) must be contained entirely within the outdoor seating area.
- 3.3.4.2 Minimum Height for Sidewalk Clearance: When extended, the umbrella must measure at least seven (7) feet above the surface of the outdoor dining area in order to provide adequate circulation space below. This measurement must include not only the umbrella frame and panels, but also any decorative borders such as fringes, tassels, or other such ornamentation.

- 3.3.4.3 Colors: Umbrellas must blend appropriately with the surrounding built environment. Therefore, umbrella fabric is not permitted to be of any fluorescent or other strikingly bright or vivid color. Umbrella covers must be of one solid color.
- 3.3.4.4 Material: Umbrella fabric must be of a material suitable for outdoor use, and must be canvas-type. No plastic fabrics, plastic/vinyl-laminated fabrics, or any type of rigid materials are permitted for use as umbrellas within an outdoor seating area.
- 3.3.4.5 Signage or Wording Prohibited: Umbrellas may only contain signage of the restaurant's name and/or logo.
- 3.4. Sidewalk Coverings. The floor of outdoor seating areas should be uncovered sidewalk material as to provide continuity with the adjacent public right-of-way. Floor coverings or raised platforms may not be used within outdoor dining areas.
- 3.5. Circulation Room. As established in the Encroachment for Outdoor Dining on Public Sidewalks section of the City of Henderson Code of Ordinances (Chapter 20, section 20-9), all outdoor dining areas must leave at least four (4) feet of unobstructed pedestrian space. This four (4) foot pedestrian space must be clear of obstructions caused by trees, tree wells, posts, hydrants, or any other infrastructure. In addition, no part of an outdoor dining area (including plants) may extend into the four (4) foot unobstructed area. Adequate space must be provided within the outdoor dining area to permit movement of patrons and wait staff. Wait staff may not serve patrons from beyond the outdoor dining area.
- 3.6. Signage. Signage is permitted within outdoor dining areas only with a valid sign permit. No extra or additional signage is permitted solely as a result of participation in this outdoor dining program. . For further information on signage regulations, please refer to the Zoning Ordinance, Appendix A, Article X of the City of Henderson Code of Ordinances, or contact the City Code Department at 270-831-1277.
- 3.7. Setback from Other Businesses. Restaurants need to be mindful of adjoining businesses when using outdoor dining areas, making sure that neighboring businesses remain visible to pedestrians and motorists. A restaurant may be required to adjust the outdoor seating area's layout, dimensions or distance from the property line (two (2) feet or more) to ensure that this visibility is maintained.
- 3.8. Time. Sunday through Thursday – 7:00 AM to 10:00 PM; Friday and Saturday – 7:00 AM to 11:00 PM. Months of operation are from April 1st through October 31st.

- 3.9. Noise. At no time shall excessive noise generated by patrons or any music originating from any part of the outdoor dining area create a nuisance.
- 3.10. Dancing. Dancing shall not be permitted or allowed within the outdoor dining areas.
- 3.11. Assignment or Transfer. The right-of-way encroachment permit cannot be assigned or transferred without the prior written consent of the City Manager.
- 3.12. Semi-annual Inspection of Sidewalks. The right-of-way encroachment permit holder is required to perform semi-annual inspections of the permitted area. The timeframe for inspections are April and September of each year. A copy of this report shall be forwarded to the City Manager at the Henderson Municipal Center, PO Box 716, Henderson, KY 42419-0716. The purpose of this report is to validate the condition of the sidewalk and that the life safety aspects of the building are being maintained.

Section 4: Outdoor Dining/Alcoholic Beverages

- 4.1 Purpose. The sale of alcoholic beverages “by the drink” shall be permitted only on those premises licensed as business liquor by the drink restaurant, tavern, or dining facility for the sale of alcohol.
- 4.2. Any food establishment which operates a restaurant and is licensed under this chapter and the provisions of the Commonwealth of Kentucky Alcoholic Beverage Control code may, upon application to the local Alcoholic Beverage Control Administrator, request permission to expand the operation of that restaurant onto, and only that part of the permitted encroachment for outdoor dining. Licensees who do not serve food shall not be eligible to apply.
- 4.3. The local Alcoholic Beverage Control Administrator may issue the permit if found to comply with the following:
 - 4.3.1. Applicant is licensed under the Alcoholic Beverage Control code for the Commonwealth of Kentucky.
 - 4.3.2. Applicant is in compliance with all conditions and restrictions of said license.
 - 4.3.3. Applicant has all necessary permit approvals for outdoor dining.
 - 4.3.4. Applicant meets alcoholic insurance requirements.
 - 4.3.5. No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.