



The City of Charlotte permits and encourages sidewalk dining to bring life and vitality to the public realm. Sidewalk dining applicants must meet eligibility requirements, follow the application process, and adhere to the following guidelines.

ELIGIBILITY

- Dining is for waiter service only.
- No permanent fixtures, facilities or encroachments are affixed to the sidewalk or installed within the City right-of-way.
- A cover charge is not charged for sidewalk dining.
- No business, product, or advertising signing is placed on any encroaching item.



APPLICATION PROCESS

- 1. Applicant**
Provide application package with pertinent information, including insurance certificates, ABC permits, etc., as further defined in Section 19-273 of City Code to CDOT's Casey Mashburn, Casey.mashburn@charlottenc.gov or 704-336-8348
- 2. CDOT**
Confirms completeness of third-party documentation and executes Sidewalk Dining Permit
- 3. Applicant**
Proceed with set up of sidewalk dining furnishings per approved permit conditions

CONSIDERATIONS

- Sidewalk dining permits remain in effect for one year and are not transferable or assignable.
- Annual fee for FY19 is a flat fee of \$1,350/year
- More details are provided in Section 19-273 of City Code

ATTACHMENTS INCLUDED

- Sidewalk Dining Agreement
- Checklist

STREET: _____ BETWEEN _____ AND _____

CITY OF CHARLOTTE, NORTH CAROLINA

AND

SIDEWALK DINING
RIGHT-OF-WAY
ENCROACHMENT AGREEMENT

****1 YEAR TERM****

THIS AGREEMENT, made and entered into this the ____ day of _____, 20____, and ending on the ____ day of _____, 20____ by and between the City of Charlotte, North Carolina, (hereinafter "City"), and _____, party of the second part,

WITNESSETH:

THAT WHEREAS, the party of the second part desires to encroach on the right-of-way of the public road designated as _____ with the placement of outdoor dining facilities and furniture within the said right-of-way, more particularly shown on the diagram attached hereto and incorporated herein.

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the City, in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the limits of the right-of-way as indicated, subject to the conditions of this agreement.

NOW, THEREFORE, in consideration of the payment of \$950.00, it is agreed that the City hereby grants to the party of the second part, its successors and assigns, the right and privilege to make this encroachment, upon the following conditions, to wit:

1. That the said party of the second part binds and obligates itself, its successors and assigns, to place and maintain the encroaching dining facilities/furniture in such reasonably safe and proper condition, including aesthetic appearance, that it will not interfere with or endanger travel upon said highway, nor obstruct, nor interfere with the proper maintenance thereof, and if at any time the City shall require the removal of or changes in the location of the said items, that the said party of the second part binds itself, its successors and assigns, to promptly remove or alter the said items, in order to conform to the said requirement, without any cost to the City.
2. That the part of the second part, its successors and assigns, agrees not to place encroaching items within said right-of-way that are:
 - a. At locations where the clear space for the passageway (paved area, including tree grates) of pedestrians is reduced to less than six (6) feet;
 - b. Within ten (10) feet of any driveway or alleyway.
 - c. Within fifteen (15) feet of any fire hydrant or standpipe.

- d. Within ten (10) feet of any side of a bus shelter or sign marking a designated bus stop.
 - e. Within ten (10) feet of a crosswalk or the intersection of right-of-way lines (property lines) at a street intersection.
 - f. An obstruction to: underground utility access points, ventilation areas, meters, accessible ramps, or other facility provided for physically challenged persons, any building access, exit or any emergency access or exit way.
 - g. In front of an adjacent property without written approval of the adjacent business/property owner.
 - h. In front of any display window without the written approval of the business or property owner.
3. That the party of the second part, its successors and assigns, agrees to the following conditions within the right-of-way covered by this agreement:
 - a. Waiter service only.
 - b. No permanent fixtures, facilities, or structures.
 - c. No alcohol sales or consumption without Alcohol Beverage Commission permit.
 - d. No cover charge.
 - e. Removal of all dining facilities/furniture when restaurant or business is closed.
 - f. No business, product, or other advertising signing on any encroaching item.
 - g. To remove all litter, food products, and other items from the sidewalk/paver area.
 - h. To keep the sidewalk/paver area clean and sanitary.
 - i. To place and maintain a “barrier” system approved by the City to physically separate the dining area from the required 6 - foot pedestrian passageway within the Uptown District and 5 feet pedestrian passageway outside the Uptown district (paved area, including tree grates) and remaining right-of-way outside of the dining area. The above-listed required minimum passageways will be reviewed on a case-by-case basis.
4. That the City retains the right and privilege to remove or alter the said items whenever an emergency or other situation requires prompt action and the City may recover the cost associated with removing or altering said encroachment.
5. That the party of the second part, its successors and assigns agree to indemnify and hold harmless the City, its officers and employees, from and against all damage,

including injury to persons or damages to property, expenses or other liability which may result from, arise out of, or be brought by reason of the encroachment;

6. That the party of the second part, its successors and assigns, further agrees to defend any lawsuits which may be brought against the City, its officers and employees by reason of the operation of the above-mentioned encroachment and pay any claims or judgments resulting from or preceding such lawsuits. Such agreement as to indemnification and defense shall be construed to the end that the City, its officers and employees, will suffer no liability or expense by reason of such claims or legal actions.
7. The party of the second part, its successors and assigns, at their own expense, shall purchase and maintain for the duration of this agreement Comprehensive General Liability Insurance and contractual liability assumed under this agreement. Such policy or policies of insurance shall be for limits of not less than \$1,000,000 bodily injury and property damage liability and will be subject to future review and adjustment at the request of the City. Certificates of Insurance shall be furnished to the Director of the Charlotte Department of Transportation, naming the City of Charlotte as additional insured, and containing the provision that 30 days written notice will be given to the City prior to cancellation or change in the required coverage. The provision of such insurance shall in no way replace or otherwise limit the obligation to defend and pay claims undertaken in paragraphs 4 and 5 above.
8. If the party of the second part should sell or otherwise transfer title to the property adjoining this encroachment, it shall notify the Director of the Charlotte Department of Transportation of the transfer and provide evidence that its successor(s) or assign(s) has obtained the insurance required under paragraph 7 of this agreement and has otherwise agreed to assume the liabilities and obligations set forth in this encroachment and has the financial means to meet such obligations. Upon the giving of such notice and the proof of such insurance and assumption and financial means the party of the second part shall be relieved of all liabilities and obligations arising under this encroachment by reason of any act or omission occurring after the giving of such notice and the proof of such insurance and assumption.
9. That the City may terminate this agreement at its sole discretion at any time and require the immediate removal of all encroaching items for reasons of public safety or non-compliance with the terms and conditions of this agreement. In such event the Director of the Charlotte Department of Transportation will provide written notice of the termination by certified mail to the party of the second part providing the date by which items are to be removed. The party of the second part binds itself, its successor(s) and assign(s), to promptly remove said items without any cost to the City. Should the encroaching items not be removed within the period specified in the notice, the City may recover any cost associated with the removal of said encroachment.
10. The City reserves the right to amend, alter or change this agreement upon further review and consideration for reasons of public safety, adopted public policy, or operational concerns without any cost to the City. In such event, the Director of the Charlotte Department of Transportation will notify the party of the second part by certified mail of amendments to the agreement. The party of the second part understands that these amendments will require the execution of a new agreement

within the period specified in the notice and failure to do so will result in termination of the agreement.

11. That the party of the second part understands that power companies, CATV television franchise holders, and other holders of easements in City right-of-way have, or may have, rights paramount to those of the party of the second part to the use of lands in the City's right-of-way for the designated street.
12. That the party of the second part waives any and all claims for damages or other relief which it may now have, or hereafter may have, against the City for interference with or damage to its facilities located within the City rights-of-way.

CITY OF CHARLOTTE, NORTH CAROLINA

APPLICANT:

BY: _____
DIRECTOR, CHARLOTTE DEPARTMENT OF TRANSPORTATION

NAME: _____

TITLE: _____

BUSINESS: _____

ATTEST:

ADDRESS _____

CITY CLERK

APPROVED AS TO INSURANCE:

INSURANCE AND RISK MANAGEMENT

SIGNATURE
_____*

NOTARIZATION OF SIGNATURE REQUIRED

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, _____, Notary Public for said County and State, certify that
(Name of Notary)
_____ personally came before me this day and who, being by
(Name of Secretary)
me sworn, acknowledged that (s)he is the Secretary of the _____
(Name of Corporation)
knows the Common Seal of the _____, and is acquainted with
(Name of Corporation)
_____. Who is the _____ of the name of the
(Name of Officer) (Title of Officer)
_____ and that (s)he saw the said _____ sign the
(Name of Corporation) (Name of Officer)
foregoing instrument and that (s)he affixed said seal to said instrument and that (s)he signed
her/his name in attestation of said instrument in the presence of _____.
(Name of Officer)

WITNESS my hand and notarial seal, this _____ day of _____, 20____.

(Notary Signature)

Notary Public

My Commission Expires: _____
(Date)

***All individual names in this notarization statement/Encroachment Agreement must be consistent in name and signature throughout the document.**

Date: _____

Business Name: _____

SIDEWALK DINING CHECKLIST

- Sidewalk dining must be directly adjacent to the retail food establishment.
- At least 10 feet away from any driveway or alleyway
- At least 15 feet away from any fire hydrant or stand pipe
- At least 6 feet of clear pedestrian passageway in Central Business District but 5 feet within other parts of Charlotte
- At least 10 feet from the side of a bus shelter or bus stop sign
- At least 10 feet from a crosswalk or intersection of r/w lines at an intersection
- Does not block underground utility access points, ventilation areas, or meters
- Does not block H/C ramps or other features for physically challenged persons
- Does not block building access or exit or emergency access or exit
- Does not occupy area in front of adjacent property (without written permission from that owner)
- Does not block front of any display window (without written permission from that owner)
- Does not have permanent fixtures, facilities, or structures
- Sidewalk/paver area clean & sanitary, free of litter & food products
- No advertising, business, or product signage on any encroaching item
- Has a barrier system separating dining area from pedestrian passageway (cane detectable)
- Umbrella height minimum of 7'