



## CITY OF MELBOURNE, FLORIDA SPECIAL ACTIVITY PERMITTING PROCEDURES

The owner or lessee of a building site ("applicant") may apply for a Special Activity Permit for a special event that is held outside. Special events may be public or private and are characterized by their limited duration, infrequent occurrence, or seasonal nature. The site selected for an event must be properly zoned. An event conducted on private property (e.g., tent sale, banner, inflatable sign, temporary sign, business promotion) must relate to the primary activity conducted by the business on that site.

An event is not considered approved until a permit or permit agreement has been issued by the City Clerk. If applicable, at least three business days prior to an event, the applicant will be required to make deposits or payments, provide insurance, and execute a permit agreement.

Reference Chapter 2, Article IX, City Code for the complete ordinance. The following is provided for information:

*Special Activity Application.* The applicant is required to submit a completed special activity application to the City Clerk along with the applicable fee. A site plan is required with each application and may be hand drawn. The site plan should be detailed enough to indicate major streets, a north arrow, and event set-up.

Any change to the application, including date, time, and location of event, must be submitted in writing. Telephone amendments will not be accepted.

### *Application Deadlines.*

- An applicant for an event that involves a road closure or requirement for a police officer must make application a minimum of 30 days prior to the date of the event.
- If an event is being held for the first time in the City and is expected to attract 1,000 people or more, the applicant is required to apply a minimum of 90 days prior to the date of the event. If the event repeats itself the following year, the application will be due at least 60 days prior to the date of the event.
- All other applicants should allow 10 business days to process an application.
- An application may not be submitted more than 365 days prior to an event.
- An applicant for an event that is held annually will have the first option of making application for the same or similar event area for the following year, as long as a completed application is submitted to the City Clerk during the first business week following the event. It is the applicant's responsibility to meet this deadline. All other applications will be processed on a first come, first served basis. This paragraph applies to events held on City property.

Fee.

- If application made 10 City business days or more prior to event: \$ 25.00
- If application made less than 10 City business days prior to event: \$ 35.00
- If application made less than three business days prior to event: \$ 135.00\*

\*Related to a business/commercial promotion (balloon, banner, temporary signs). The \$100.00 will be waived for an event being held for the first time on a site.

Applicants are required to meet the application deadlines on the previous page.

A nonprofit applicant will not be required to pay a fee. As defined in Code, nonprofit means: an individual not acting on behalf of a for-profit business, corporation, or organization; a not-for-profit charitable, educational, religious, scientific, or veterans organization; or an applicant for an event where 100% of the proceeds will go to the fundraiser.

Admission Street Events. See policy adopted May 25, 2010 by City Council.

Alcoholic Beverages. Licensing requirements are established by the Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco (ABT) (407-245-0780). A licensed establishment may apply to ABT for a temporary extension of licensed premise. A nonprofit civic organization may apply to ABT for a temporary (ODP) license in accordance with Section 561.422, Florida Statutes. In either case, a copy of the temporary license issued by the state must be provided to the City Clerk at least three business days prior to the event.

Balloons. Hand held helium or air filled balloons (typically described as birthday or party balloons) are not permitted outdoors as signage in the City of Melbourne.

Barricades. The Traffic Engineering Division will determine if barricades and/or variable message boards are required for an event and prepare the appropriate Maintenance of Traffic (MOT) plan. Depending on the City's current supply of traffic control devices, an applicant may be required to obtain barricades from a private source.

Cancellation of event. If an applicant decides to cancel, postpone, or reschedule an event, a minimum of 24 business hours notice must be provided. If less than 24 hours notice is provided, the applicant will be responsible for the costs of City services that were not canceled in a timely manner.

Carnival. A Business Tax Receipt is required regardless of nonprofit status. Each applicant will be required to demonstrate that he/she has a current permit from the Florida Department of Agriculture and Consumer Services, Bureau of Fair Rides Inspection.

Circus. A Business Tax Receipt is required regardless of nonprofit status. A circus must have the proper licenses issued by the United States Department of Agriculture and meet or exceed requirements relating to circuses issued by the Florida Fish and Wildlife Conservation Commission.

City Property/Public Right-of-way.

- **Alcoholic Beverages.** Alcohol sales/distribution must end at midnight. The open container ordinance may be waived until 1:00 a.m. Each point of sale is limited to a two drink maximum. Glass containers are prohibited within an event area.
- **City Services.** (See same category on Page 4.)
- **Duty to Inspect.** At least two weeks prior to an event, the applicant will be required to perform a safety inspection of the event area and report any findings in writing to the City Clerk.
- **Hold Harmless and Indemnification.** The permit agreement will contain a hold harmless and indemnification clause in a format acceptable to the City Attorney and Risk Manager.
- **Insurance.** If the event involves the barricading of a roadway, use of a roadway, or placement of a temporary structure on City right-of-way or City property, the applicant will be required to provide a general liability insurance policy. The following is an excerpt from the City Code:

The policy of insurance will be required to cover the applicant, the individual or other legal entity holding the activity and its or their employees for any and all claims, demands, and expenses whatsoever, including defense and causes for action for general damages, bodily injury and property damage arising out of or to the extent caused by negligent acts or omissions, intentional misconduct of the applicant, the individual or other legal entity holding the activity and its or their employees and volunteers. The following minimum insurance requirements shall be provided:

Occurrence basis. All policies, except professional liability insurance and workers' compensation, shall be written on an occurrence and not a claims-made basis.

Coverage amounts. **The coverage amount is one million dollars (\$1,000,000.00) single limit liability in the aggregate** and may be met by a combination of underlying and umbrella policies so long as, in combination, the limits equal or exceed those stated.

Named insured. **All policies shall name the city as an "additional insured."** Each policy which is to be endorsed to add the city as an "additional insured," shall contain cross-liability wording as follows: "In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder."

Evidence of insurance. **In addition to a certificate of insurance, the city requires proof that the policy has been endorsed by naming the city as additional insured. To satisfy this requirement, the applicant may provide a copy of the actual endorsement or written communication from the insurance agent to the insurance company directing that the policy be endorsed by naming the city as additional insured. The following language must appear on the certificate of insurance: "The City of Melbourne is named as an additional insured as the City of Melbourne's interest may appear only." Additionally, the certificate must indicate the specific event that is being covered.**

Insurance companies. All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Florida, or surplus line carriers on the State of Florida Insurance Commissioner's approved list of companies qualified to do business in the State

of Florida. All insurance carriers and surplus line carriers shall be rated A+, with a financial quality of VII, or better by A.M. Best Company.

Alcohol. In addition to meeting the insurance requirements above, applicants for events where alcohol is being serviced must provide either liquor liability insurance or host liquor liability insurance. An applicant who is in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages must obtain or have liquor liability insurance. An applicant who is *not* in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages must obtain or have host liquor liability insurance. This policy of insurance will be required to cover the applicant, the individual or other legal entity holding the activity and its or their employees or volunteers for any and all claims, demands, and expenses whatsoever, including defense and causes arising from or related to the furnishing, sale, consumption, or serving of alcoholic beverages of any type as defined in ss. 561-565, Florida Statutes. These insurance requirements will not relieve or limit the liability of the applicant, the individual or other legal entity holding the activity and allowing alcohol to be consumed, sold, or served. **The minimum liquor liability/host liquor liability insurance coverage amount is one million dollars (\$1,000,000.00) single limit liability in the aggregate** and may be met by a combination of underlying and umbrella policies so long as, in combination, the limits equal or exceed those stated.

- **Noise and Vibration Control.** Noise sources including, but not limited to, sound amplification of music and entertainment, must stop at midnight. The applicant may make instructional announcements (“the event is over,” “it’s time to clear the streets”) until 12:30 a.m. All noise sources must end by 12:30 a.m.
- **Notification.** At least two weeks prior to an event, the applicant must provide written notification to each occupant within a proposed event area. Notification shall include the name, date, and time of the event; a map; and a contact name and telephone number. Additionally, information about the event shall be posted on the City’s web site
- **Trash receptacles and clean-up.** The applicant is responsible for placing adequate trash receptacles throughout the event area. The event area must be returned to its pre-event condition following an event. Clean-up of an event area shall include the surrounding area along with public parking lots in the area that are impacted by the event. If the City is required to provide clean-up following an event because the applicant did not properly perform his duties following the event, the applicant will be charged an hourly rate of \$50.00 per employee, plus any costs.

City Services/Payment. City services are provided on a cost recovery basis. Applicants are expected to pay for the full cost of providing services. Services will be based on: area, location, duration, and type of event; previous experience with an event or similar event; type of entertainment or proposed activities; whether alcohol will be available during the event; information contained in the completed application, including estimated attendance; potential for illegal use of alcohol or drugs; potential for unrest or injury to attendees; traffic conditions; and fire conditions.

The following estimates are used:

City Clerk. Citywide pre-event planning meeting, \$250.00. Drafting a permit agreement for a first time event or an event that requires a pre-event planning meeting, \$90.00. All other events, \$45.00. (A permit agreement is drafted when an event is either held on City property or at least \$5,000.00 in City services are being provided.)

Facilities Maintenance (electrical services and special services) and Parks Division (installation of landscape barriers and special services). \$35.00 per hour/employee.

Fire Department (medical services, special services, supplies) and Code Compliance (pre-event inspection, special services during event, and noise monitoring). \$50.00 per hour/employee.

Police. Regular hours will be billed at \$30.00/hour/officer and \$35.00/hour/supervisor. Holidays will be billed at \$45.00/hour/officer and \$50.00/hour/supervisor. A \$3.00 administrative fee per person applies. Applicants will be required to complete a "Melbourne Police Department Secondary Employment Services Application/Request" form and submit with their special activity application.

Traffic Engineering (traffic control devices). \$45.00 per hour/employee. Rental of variable message boards and cost of drafting an MOT (maintenance of traffic plan) will be based on actual cost.

All other services. Cost will be based on the actual cost of providing the service.

If an applicant has previously conducted an event in the City and has a positive payment history, a deposit equal to one-half of the estimate costs for City services shall be required. All other applicants shall be required to pay 100% of the anticipated costs for City services.

Farmers' Markets. Farmers' markets are permitted in the redevelopment areas on property zoned C-3 or I-1, and at Wickham Park. Banners and signage may be placed two days prior to an event and must be removed the day of the event. No permanent banners or signs will be allowed. A notice must be posted indicating the specific location of restroom facilities in the area. A general statement such as "restrooms are available at local merchants" is not permitted. If a farmers' market uses a portable toilet on the site, it must be handicapped accessible.

Flags. On a single building site, four flags are permitted provided they are flown from a flagpole (a flagpole is a freestanding, ground mounted, structure or a structure mounted to a building, or to the roof of a building and used for the sole purpose of displaying a flag). Up to 20 flags may be considered through the special activity permitting process. A flag, as defined by the Sign Code, is a sign made of material secured on one side from a flagpole such that the sign material hangs limply or drooping when not set in motion by the movement of air. A sign that is "sleeved" is not considered a flag.

Food Preparation/Sales. If food preparation/sales are being conducted by non-profit organizations, schools, churches, and related organizations, the applicant must contact Brevard County Health Department at (321) 633-2100 (option "4"). All other applicants (licensed establishment, restaurants) must contact the Department of Business and Professional Regulation, Customer Contact Center, (850) 487-1395.

### Frequency of Events.

- The frequency and duration of events is calculated per building site. If a building site has multiple units, the frequency and duration shall apply to each unit. An applicant may conduct a special event for a total of 30 days per year. Events are permitted in five-day increments and the five-day period must be consecutive. (For example, an applicant could conduct up to six, five-day events per year.) There is no waiting period between events.
- An applicant may conduct an off-site event up to four times per year (a total of 20 days in one year, five-day increments) for the sale of vehicles in a C-P zoning district. The off-site sale does not affect the frequency allowed at the applicant's primary business location.
- During the period that a business is directly affected by road construction or work in the right-of-way (one or more curb cuts lost or access restricted), a special activity may be conducted for an additional five-day period each month.
- Schools, colleges, universities, outdoor seasonal sales, and locations where off-site events are held shall be exempt from this section.
- An applicant is allowed a reasonable set-up and take-down period for an event, which is not included in the five-day increment. The period will be based on the type and complexity of the event. Placement of inflatable signs, banners, temporary signs, and flags will be allowed a one-day set-up and one-day take-down period.

Hours of event. Special events held on City property may be conducted between 6:00 a.m. and midnight. Special events held on private property may be conducted during the regular business hours of the primary operation on site. An event being held on private property at the same time an event is being held on City property in the immediate area must end at the same time as the event being held on City property (see City Clerk for explanation).

Inflatable Sign. An object or device constructed to resemble a figure or object when inflated that can be filled with air or gas. Inflatables may be permitted through the special activity permitting process as long as they are tethered and larger than 15 cubic feet.

Noise and Vibration Control. During a special event, the decibel level may not exceed 65 dB at the event boundary adjacent to any residential use between the hours of 9:00 a.m. and midnight, as measured in the manner described in Chapter 20 of the City Code. During all other hours, the provisions contained in Chapter 20 of the City Code must be followed.

Outdoor Seasonal Sales. This refers to the sale of items associated with a season. Seasonal sales may include sparklers, pumpkins, Christmas trees and holiday decorations. The term is narrowly defined and may not include a broad category, such as gifts, crafts, or household items.

- The applicant must obtain a business tax receipt prior to set-up. Written permission from the property owner must be submitted with the application.
- Adequate stabilized parking, including handicapped parking, must be provided within 100 feet of the sales/display area. Restrooms, including handicapped accessible restrooms, must be provided on site within 500 feet of the sales/display area.
- If parking and/or restroom facilities are provided by an adjacent business, the applicant must provide a copy of the written agreement. The business hours of the adjacent business must coincide with the operating hours of the special event.
- The sales/display area shall not be located within a required landscaped area and on-site vegetation shall not be disturbed.
- If the applicant does not remove all debris and unsold items from the site at the end of the sale, the business tax receipt and the special activity permit may not be approved during the next season.
- A maximum of one personal recreational vehicle and one private vehicle may be maintained on site by the applicant.

Portable Restrooms. The guidelines established by the Florida Administrative Code and the Portable Sanitation Association International will be used to determine the total number of portable toilets. Consideration will be given to steady attendance, peak attendance, and the number of permanent restrooms available within an event area. The required number of portable toilets must be distributed throughout an event area.

Residential Block Parties. Applicants for residential block parties shall be exempt from the insurance requirements, unless the block party includes placement of a temporary structure on City property.

Signs. Reference the guidelines issued by the Code Compliance Division.

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