

SIDEWALK CAFÉ PERMIT APPLICATION

Application for sidewalk café permit must include:

1. **Written request.**
2. **Scaled diagram** (scale 1":1') detailing the frontage of the applicants café or restaurant facing the sidewalk area requested for use as a sidewalk café. The plan shall indicate the location of doorways, width of sidewalk (distance from curb to building face), location of trees, tree wells, sidewalk benches, trash receptacles, utilities (including fire hydrants, light fixtures, etc.) newspaper racks, mailboxes, and any other semi-permanent sidewalk obstruction which may affect or be affected by the proposal. The drawing shall delineate the area requested for use as a sidewalk café, and indicate the total square footage of the affected road right of way and exact dimensions of the proposed outdoor area.
3. **Copy of current Certificate of Insurance with City named as additional insured.**
4. **Completed Hold Harmless Certificate.**
5. **Non-refundable application fee in the amount of \$55.00 per location if alcohol is not served.**
Non-refundable application fee in the amount of \$220.00 per location if alcohol is served.

Name of applicant: _____

Establishment Name: _____

Address: _____

Phone/Email: _____

- | | |
|--|---|
| <input type="checkbox"/> Written Request Submitted | <input type="checkbox"/> Cert of Insurance (additional insured) submitted |
| <input type="checkbox"/> Scaled Diagram submitted | <input type="checkbox"/> Hold Harmless Certificate submitted |
| <input type="checkbox"/> Fee Paid _____ | |

Date Completed Application Submitted: _____

Community Development Approval: _____

Department of Public Works Approval: _____

Date of Common Council Approval: _____

- Copy of Sidewalk Café Policy/Procedures provided to applicant.
- Copy of Sidewalk Café Ordinance provided to applicant.

*See back for "Alcohol Being Served Application Submission Information."

SIDEWALK CAFÉ PERMIT WITH ALCOHOL BEING SERVED:

1. Written request to Common Council to amend "premise section" of liquor license.

Date submitted: _____

Date of Council Action: _____

2. Written certification that food sales are greater than 50% of gross receipts

Date submitted: _____

Applicant Signature: _____ Date _____

**CITY OF STURGEON BAY
SIDEWALK CAFÉ POLICY/PROCEDURES**

Sidewalk café shall mean the expansion of an establishment creating an outdoor seating area in the public right of way that immediately adjoins the licensed premises for the purpose of consuming food or beverages.

APPLICATION SUBMISSION:

The following shall be submitted to the City Clerk's Office.

1. A permit application, which shall consist of a written request along with a scaled diagram, to operate a sidewalk café. (This permit application shall be reviewed by the Community Development Office and Street Department prior to submission to the Common Council for final approval.)
 - A. A diagram (scale 1":1') detailing the frontage of the applicant's café or restaurant facing the sidewalk area requested for use as a sidewalk café. The plan shall indicate the location of doorways, width of sidewalk (distance from curb to building face), location of trees, tree wells, sidewalk benches, trash receptacles, utilities (including fire hydrants, light fixtures, etc), newspaper racks, mailboxes, and any other semi-permanent sidewalk obstruction which may affect or be affected by the proposal. The drawing shall delineate the area requested for use as a sidewalk café, and indicate the total square footage of the affected road right of way and exact dimensions of the proposed outdoor area.
2. Copy of current Certificate of Insurance with the City named as an additional insured.
3. Completed Hold Harmless Certificate.
4. A non-refundable application fee in the amount of \$55.00 per location if alcohol is not served.
A non-refundable application fee in the amount of \$220.00 per location if alcohol is served.

SIDEWALK CAFÉ STANDARDS:

The following standards, criteria, conditions, and restrictions shall apply to all sidewalk cafés, however, additional restrictions to protect and promote public safety, health, or welfare may be imposed.

1. Sidewalk cafés are restricted to the public right of way immediately adjacent to the applicants premise.
2. Tables, chairs, or other fixtures in the sidewalk café:
 - a. Shall not block designated ingress, egress, or fire exits from or to the establishment or any other structure.
 - b. Shall be readily removable and shall not be physically attached, chained, or in any manner affixed to any structure, tree, post, sign or other fixture.
 - c. Shall be removed when the sidewalk café is not in operation.
 - d. Shall be maintained in a clean, sanitary and safe manner.
 - e. Must remain within designated boundaries when seating is filled to capacity.
 - f. All staff responsible for set up of the sidewalk café must know how to arrange it according to original application and do so consistently.
 - g. Must be removed from the sidewalk between the hours of 10:00 p.m. and 6:00 a.m.
3. Sidewalk cafes shall be located in such a manner that a distance of not less than six feet is maintained at all times as a clear and unobstructed pedestrian path. For the purpose of minimum clear path, trees, plantings, sculptures, benches, newspaper dispensers or any of the like shall be considered obstructions.

4. The sidewalk café, and area immediately adjacent, shall be maintained in an orderly and neat manner at all times. Debris shall be removed as required during the day.
5. No food preparation, food storage, refrigeration apparatus, or equipment shall be allowed in the sidewalk café.
6. A copy of the approved site plan shall be maintained on the applicant's premises and shall be available for inspection at all times.
7. The use of the public right of way as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to trees, light poles, traffic signs, maintenance procedures, shall take precedence over said use of public right of way at all times. The Chief of Police or designee may temporarily order the removal of the sidewalk café for special events.
8. The City, its officers and employees, shall not be responsible for sidewalk café fixtures that are relocated or damaged.
9. The approval of a sidewalk café permit is conditional at all times. A sidewalk café permit may be revoked or suspended by the Chief of Police or his designee where necessary to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, in emergency situations, or due to noncompliance with the conditions of the permit.

SIDEWALK CAFÉ STANDARDS WITH ALCOHOL BEVERAGES BEING SERVED:

All procedures set forth for a standard Sidewalk Café Permit apply in addition to the following:

1. Service of alcohol beverages shall only be permitted to those full service restaurants whose food sales are greater than 50 percent of its gross receipts. Applicant must provide written certification that food sales are greater than 50 percent of its gross receipts.
2. The service and consumption of alcohol shall be limited to the hours set forth in the sidewalk café permit.
3. Alcohol beverages shall only be served to patrons of the establishment by a server in the sidewalk café. There shall be no carry-out or carry-in of alcohol beverages by the patron to and from the sidewalk café.
4. Patrons of the establishment in the sidewalk café shall remain seated at the table when consuming alcohol.
5. Alcohol beverage shall only be served to patrons of the establishment that are receiving food service in the sidewalk café.

RESPONSIBILITY OF LICENSEE:

The license holder must amend the "Premise" portion of the alcohol license issued by the City of Sturgeon Bay. The license holder shall, in addition to all other requirements of the law and the City liquor license, take reasonable steps to ensure that alcohol beverages are consumed only by patrons of the establishment who are of legal drinking age, and not by passersby or persons who are not of age or who are obviously intoxicated. Failure to take reasonable steps and use them at all times in the sidewalk café is grounds for suspension or revocation of the sidewalk café permit.

RESPONSIBILITY OF PATRONS:

No person shall leave the sidewalk café area listed in the permit with an alcohol beverage. Any person doing so shall be in violation of City ordinance section prohibiting the consumption of alcohol or possession of open containers on streets.

ORDINANCE NO. 1147-0705

THE COMMON COUNCIL OF THE CITY OF STURGEON BAY, WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION 1: Section 8.06 (2) (f) of the Municipal Code of the City of Sturgeon Bay is hereby rescinded and recreated as follows:

- (f) Sidewalk Cafés. Restaurants creating an outdoor seating area in the public right-of-way immediately adjacent to the restaurant may, upon approval by the City Council following application to the City Clerk, occupy and use a portion of the City right-of-way as approved by the City Council and subject to the sidewalk café policy and procedures adopted by the City of Sturgeon Bay. The application fee for a sidewalk café shall be identified in the sidewalk café policy and procedures as adopted by the City of Sturgeon Bay. Any restaurant which obtains approval from the City Council to serve alcohol upon the public right-of-way shall, in addition to receiving authorization under this section, obtain an amendment to its alcohol beverage license permitting service and consumption of alcohol upon the public right-of-way.

SECTION 2: Section 8.06 (2) (g) of the Municipal Code of the City of Sturgeon Bay is hereby created as follows:

- (g) Encroachments. Encroachments into public rights-of-way for such proposed use including but not limited to outdoor seating, outdoor display of merchandise, and outdoor plant displays located in the Waterfront Redevelopment Area subject to the following:
1. The minimum cleared sidewalk width shall at all times be six feet.
 2. The owner of the building housing the business encroaching into the right-of-way shall sign and file a "Hold Harmless and Indemnification Agreement" relieving the City of any legal liability related to the encroachment.
 3. Restaurants adding outdoor seating shall be reviewed by the Department of Health and Human Services.
 4. If portions of this section conflict with provisions in other sections of the Municipal Code, such as regulations that would prohibit proposed encroachments or be more restrictive regarding regulation of proposed encroachments, the more restrictive provision(s) shall govern.
 5. Encroachments under this subsection located in the Waterfront Redevelopment Area must be approved by the Common Council.
 6. Encroachments under this subsection, excepting those for sidewalk cafes, shall require an annual permit to be issued by the office of the City Clerk upon payment of a \$25.00 fee.

SECTION 3: This ordinance shall take effect on the day after its publication.

Approved: Dennis McIntosh, Mayor

Attest: Stephanie L. Reinhardt, Clerk
Date of 1st Reading: 6/21/05
Date of 2nd Reading: 7/05/05
Adoption: 7/05/05
Publication: 7/16/05

HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

The undersigned certifies that he or she is a duly authorized agent of _____, and is duly empowered and authorized to execute this hold harmless and indemnification agreement on behalf of the above referenced party.

The undersigned in consideration of being allowed to use City property to _____, which shall encroach in the public right-of-way adjacent to property located at _____; do hereby release, acquit, and forever discharge the City of Sturgeon Bay, its officers, agents, and employees (hereinafter known as City), from any and all actions, causes of action, claims, demands, costs, expenses and compensation related to property damages, personal injury or death arising out of any accident or occurrence while maintaining said encroachment in the public right-of-way. The undersigned further agrees to hold harmless and defend the City from any claims or actions arising from said _____ as an encroachment in the public right-of-way.

The undersigned agrees that as a condition of the City approving the use as an encroachment in the public right-of-way, it will maintain usage, and continue to provide a minimum of six foot unobstructed area for public use and passage in said public right-of-way.

Dated this _____ day of _____, 2007.

By: _____

By: _____