



## 2020-2021 Sidewalk Café Permit Application

Please mail completed application along with supporting documentation & application fee to the City of Eau Claire Engineering Department, PO Box 5148, Eau Claire, WI 54702 or drop off materials in person to the Engineering Department in City Hall at 203 S. Farwell Street. Please call 715-839-4934 with any questions.

<b>APPLICANT INFORMATION</b>	Date: _____ Restaurant Owner: _____ Restaurant Name: _____ Restaurant Address: _____ Telephone: _____ Fax: _____ Email Address: _____ Requested Number of Outdoor:    Tables: _____ Chairs: _____	<u>PERMIT TYPE:</u> <input type="checkbox"/> New permit (\$88) <input type="checkbox"/> New permit w/ alcohol (\$238) <input type="checkbox"/> Renewal (\$42) <input type="checkbox"/> Renewal w/ alcohol (\$120) <input type="checkbox"/> Renewal w/ new alcohol (\$192)
<b>REQUIRED MATERIALS</b>	<p><b>Applications will <span style="color: red;">not</span> be accepted without the following:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Copy of a valid restaurant license.</li> <li><input type="checkbox"/> Copy of a current certificate of insurance.</li> <li><input type="checkbox"/> A layout drawn to scale on 8.5" x 11" paper, which accurately depicts the dimensions of the existing sidewalk area and adjacent private property, the proposed location of the sidewalk café, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, parking meters, bus shelters, sidewalk benches, trash receptacles, and any other sidewalk obstructions, either existing or proposed, within the pedestrian area.</li> <li><input type="checkbox"/> Photographs, drawings, or manufacturer's brochures describing the appearance and dimensions of all tables, chairs, umbrellas or other objects related to the sidewalk café.</li> <li><input type="checkbox"/> Signed Hold Harmless Agreement.</li> <li><input type="checkbox"/> A non-refundable application fee:           <ul style="list-style-type: none"> <li><i>New permit <span style="color: red;">(\$88)</span></i></li> <li><i>New permit w/ alcohol expansion <span style="color: red;">(\$238)</span></i></li> <li><i>Permit renewal <span style="color: red;">(\$42)</span></i></li> <li><i>Permit renewal w/ alcohol expansion <span style="color: red;">(\$120)</span></i></li> <li><i>Permit renewal w/ new alcohol <span style="color: red;">(\$192)</span></i></li> </ul> </li> </ul>	
<b>SIGNATURE</b>	<p>If this application is approved, I hereby agree to abide by all the relevant City regulations pertaining to the installation of sidewalk cafés, including but not limited to Chapter 13.12.062 of the City Code of Ordinances.</p> <p>_____</p> <p><i>Signature – Restaurant Owner</i></p>	
	<p><b>OFFICIAL USE ONLY</b></p> <p>Review date: _____    All materials submitted: _____ yes    Liquor license: _____</p> <p>Signature: _____    Fee: _____</p> <p style="text-align: right; font-size: small;">(Receipt Code 1345)</p>	



# SIDEWALK CAFE TEMPORARY ALCOHOL LICENSE EXPANSION APPLICATION

<b>Legal Business Name</b>			
<b>Business Trade Name</b>		<b>Phone No.</b> (     )     -	
<b>Street Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
<b>Email Address</b>			
<b>Person in charge of the g]XYk U_`WUZ (First and Last Name)</b>		<b>Title</b>	

1. Is this a new sidewalk cafe?     Yes     No    If no, what was the date of the last cafe? \_\_\_\_\_
2. Date(s) \_\_\_\_\_ Hours of operation \_\_\_\_\_
3. Number of persons expected at the sidewalk cafe each day \_\_\_\_\_
4. Have neighbors been notified?     Yes     No
5. Will you be using items such as loud speakers, call systems, live music, etc.?     Yes     No
6. Attach an operational and security plan that explains how alcohol consumption will be monitored. Provide specific details on how you intend to control consumption outside of the licensed premise and how you will prevent underage alcohol consumption.
7. Attach a site plan showing the location of the proposed expansion in relation to the existing premise. Include:
  - A. Location and materials to be used for removable barrier enclosing the expansion
  6. Location of entry and exit points
  7. Site plan must be drawn to scale (example: 1 inch = 10 feet). Show dimensions of:
    - Size of the area occupied by the sidewalk cafe
    - Distance from structures on the premises and adjoining parcels
    - Set-back of removable barrier and proposed sidewalk cafe from property lines, streets, sidewalks, etc.
    - Show emergency exits
    - Show exit from bar to fenced outdoor area

## APPLICANT'S STATEMENT

*I hereby certify that the answers on this application are true and correct to the best of my knowledge. I agree, in the consideration of the granting of this license expansion, to comply with the laws of the State of Wisconsin, and to the provisions of the Municipal Code of Ordinances of the City of Eau Claire.*

**Signature** \_\_\_\_\_ **Date** \_\_\_\_/\_\_\_\_/\_\_\_\_

# HOLD HARMLESS AGREEMENT

(Sidewalk Café Permit)

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In consideration of being issued a permit for the use of the public right-of-way (hereinafter referred to as the “property”) for a sidewalk café, the undersigned applicant (hereinafter referred to as the “permittee”) agrees to indemnify, defend, save, and hold harmless the City, its officers and employees, from any and all claims, lawsuits, damages, and cause of action, which may arise out of the permittee’s activity on the sidewalk café, and for any loss or damage arising out of the use, or the discontinuance of any use.

The undersigned agrees and understands that the use of the property is temporary, on a day-to-day basis; that the undersigned does not acquire any right, title, or interest in such property, that the undersigned may be required by the City at any time to vacate all or any part of the property that the undersigned has been given permission to use; that upon demand to vacate such property, the undersigned agrees to promptly remove any personal property placed thereon by the undersigned and to return the property to the same condition that it was in prior to commencement of such use or to reimburse the City for the cost of removing such property and restoring the property to its prior condition and that the undersigned has no recourse against either the City or its officers, employees or agents, either for any loss or damage occasioned by his or her being required to vacate all or any part of the property which the undersigned has been granted permission to use.

The undersigned further agrees at all times hereafter to comply with all municipal ordinances, rules, and regulations of the City of Eau Claire, Wisconsin.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**Name of Business/Restaurant:** \_\_\_\_\_

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**Printed Name of Permittee**

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**Printed Title of Permittee**

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Permittee’s Signature

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Witness’s Signature

# Sidewalk Café Standards & Alcohol Licensing

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## **Sidewalk Café Standards**

The following standards, criteria, conditions & restrictions shall apply to all sidewalk cafés provided; however, the Director of Community Services or designee may impose additional conditions and restrictions to protect and promote the public health, safety or welfare, to prevent a nuisance from developing or continuing and to comply with this section, the City Code of Ordinances, and all applicable state and federal laws.

1. Sidewalk cafés are restricted to the public right-of-way immediately adjacent to the licensed full service restaurant to which the permit is issued.
2. Tables, chairs, umbrellas or other fixtures in the sidewalk café:
  - a. Shall not be placed within five feet (5') of bus stops, taxi stands, fire hydrants, alleys, bike racks. Shall not be placed within five feet (5') of a pedestrian crosswalk or corner curb cut.
  - b. Shall not block designated ingress, egress, or fire exits from or to the restaurant, or any other structures.
  - c. 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, curb, or sidewalk.
  - d. Shall be removed when the sidewalk café is not in operation. Plant tubs may remain in the sidewalk café if approved under section 13.12.062(F)(5).
  - e. Shall be maintained in a clean, sanitary, and safe manner.
3. Sidewalk cafés shall be located in such a manner that a distance of not less than four feet (4') is maintained at all times as a clear and unobstructed pedestrian path. For the purpose of the minimum clear path, parking meters, traffic signs, trees, and all similar obstacles shall be considered obstructions.
4. The sidewalk café, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day.
5. Plant tubs shall be located in the sidewalk café with the approval of the Director of Community Services or designee. Plant tubs shall be maintained in a safe, neat, clean, and presentable manner.
6. Umbrellas and other decorative material shall be treated wood, canvas, cloth, or similar material that is manufactured to be fire-resistant. No portion of an umbrella shall be less than six feet eight inches above the sidewalk.
7. Signs to be used in the sidewalk café shall be in accordance with Chapter 16.16 of the City Code of Ordinances.
8. No food preparation, food storage, refrigeration apparatus, or equipment shall be allowed in the sidewalk café.
9. No amplified entertainment shall be allowed in the sidewalk café unless authorized as part of a special event.
10. A copy of the site plan, as approved in conjunction with the current sidewalk café permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.
11. The sidewalk café permit covers only the public right-of-way described in the permit. Tables and chairs on private property will be governed by other applicable regulations.
12. Sidewalk cafés shall not operate after 10:00 p.m. or before 6:00 a.m.
13. The use of a portion 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 signals, pull boxes, manholes, or any public initiated maintenance procedures, shall take precedence over said use of the 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, including but not limited to, parades, sponsored runs or walks, or for public health and safety.
14. The City, its officers and employees, shall not be responsible for sidewalk café fixtures that are relocated or damaged.

## **Alcohol Licensing**

Alcohol beverages are not allowed on the public sidewalk at any time. Such activity is governed by Chapters 5.28 and 9.52 of the City Code of Ordinances and by state laws. Notwithstanding the foregoing, the sale and service of alcohol beverages by full service restaurants located in the downtown or Water Street areas may be permitted provided an expansion of the premise is approved by the City Council for the area described in the sidewalk café permit.

**13.12.062 Sidewalk cafe permit.** A. Purpose: To further encourage the revitalization of the downtown and Water Street areas of the city, including the development of social and economic activity, the city council finds and determines:

1. That there exists a need for outdoor eating facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and food consumption.

2. That sidewalk cafes will permit enhanced use of the available public rights of way, will complement the restaurants operating from fixed premises, and will promote economic activity in an area.

3. That the existence of sidewalk cafes encourages additional pedestrian traffic and their presence may impede the free and safe flow of pedestrians. Therefore, a need exists for regulations and standards for the existence and operation of sidewalk cafes to ensure a safe environment.

4. That the establishment of permit conditions and safety standards for sidewalk cafes is necessary to protect and promote public health, safety, and welfare.

B. Definitions.

1. "Sidewalk cafe" shall mean an expansion of a full service restaurant creating an outdoor dining facility on part of the public right of way that is immediately adjacent to the licensed premises for the purpose of consuming food or beverages prepared at the full service restaurant adjacent thereto. "Full service restaurant" shall mean an establishment requiring a restaurant license under chapter 8.16 of the city code of ordinances whose food sales are greater than 50 percent of its gross receipts.

2. "Downtown" shall mean the qualifying properties lying within the area bounded on the north by Cameron Street and William Street as extended to the Chippewa River, on the east by Dewey Street, on the south by Lake Street, and on the west by Fifth Avenue/Fulton Street/Whipple Street. The permitted area includes sidewalk located on both sides of a described boundary street.

3. "Water Street" shall mean the qualifying properties lying within the area bounded on the north by Chippewa Street, on the east by Second Avenue, on the south by the Chippewa River, and on the west by Ninth Avenue. The permitted area includes sidewalk located on both sides of a described boundary street.

C. Permit required.

1. Notwithstanding the provisions of section 13.12.060, a full service restaurant located in the downtown or Water Street areas of the city may apply to the director of engineering or designee for a permit to allow a restaurant to operate a sidewalk cafe. The director of engineering or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the city code of ordinances, or applicable state or federal law.

2. Before a permit may be issued, the application and site plan shall be reviewed for approval by the city/county health, city fire inspections and city building inspections departments.

3. Each permit shall be effective for one year, from April 1 until March 31.

4. The permit issued may be transferred to a new owner only for the location and area listed in the permit. The transferred permit shall be valid only for the remainder of the period for which it was originally issued. A new certificate of insurance must be filed with the city within 30 days of the permit transfer.

D. Permit application. Application for a permit to operate a sidewalk cafe shall be submitted to the department of engineering and shall include at least the following information:

1. Completed city application form.

2. Copy of a valid restaurant license in the city as required by chapter 8.16, Food Service Establishments.

3. Copy of a current certificate of insurance in the amount and categories required by section 13.12.062(H).

4. A layout, drawn to scale, which accurately depicts the dimensions of the existing sidewalk area and adjacent private property, the proposed location of the sidewalk cafe, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, parking meters, bus shelters, sidewalk benches, trash receptacles, and any other sidewalk obstructions, either existing or proposed, within the pedestrian area. This layout shall be submitted on 8½" x 11" paper, suitable for reproduction.

5. Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas or other objects related to the sidewalk cafe.

6. A non-refundable application fee, as stated in the City of Eau Claire Fees and Licenses Schedule.

7. If seeking to extend sidewalk café setup to areas of the sidewalk laterally beyond that portion of the sidewalk directly fronting applicant's real property, applicant must obtain and include written permission signed by the owner and any tenants of the building in front of which the sidewalk café is proposed to extend, not to exceed 100 feet in either lateral direction beyond the applicant's property line.

E. Permit fees.

1. The application fee for an initial sidewalk cafe permit, with or without an alcohol license expansion, shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

2. The annual renewal fee for a permit, with or without an alcohol license expansion, shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

F. Sidewalk cafe standards. The following standards, criteria, conditions, and restrictions shall apply to all sidewalk cafes, provided, however, that the director of engineering or designee may impose additional conditions and restrictions to protect and promote the public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the city code of ordinances, and all applicable state and federal laws.

1. Sidewalk cafes are restricted to the public right of way immediately adjacent to the licensed full service restaurant to which the permit is issued.

2. Tables, chairs, umbrellas or other fixtures in the sidewalk cafe:

a. Shall not be placed within five feet of bus stops, taxi stands, fire hydrants, alleys, bike racks. Shall not be placed within five feet of a pedestrian crosswalk or corner curb cut.

b. Shall not block designated ingress, egress, or fire exits from or to the restaurant, or any other structures.

c. 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, curb, or sidewalk.

d. Shall be removed when the sidewalk cafe is not in operation. Plant tubs

may remain in the sidewalk cafe if approved under section 13.12.062(F)(5).

e. Shall be maintained in a clean, sanitary and safe manner.

3. Sidewalk cafes shall be located in such a manner that a distance of not less than four feet is maintained at all times as a clear and unobstructed pedestrian path. For the purpose of the minimum clear path, parking meters, traffic signs, trees, and all similar obstacles shall be considered obstructions.

4. The sidewalk cafe, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day.

5. Plant tubs shall be located in the sidewalk cafe with the approval of the director of engineering or designee. Plant tubs shall be maintained in a safe, neat, clean, and presentable manner.

6. Umbrellas and other decorative material shall be treated wood, canvas, cloth, or similar material that is manufactured to be fire-resistant. No portion of an umbrella shall be less than six feet eight inches above the sidewalk.

7. Signs to be used in the sidewalk cafe shall be in accordance with chapter 16.16 of the city code of ordinances.

8. No food preparation, food storage, refrigeration apparatus, or equipment shall be allowed in the sidewalk cafe.

9. No amplified entertainment shall be allowed in the sidewalk cafe unless authorized as part of a special event.

10. A copy of the site plan, as approved in conjunction with the current sidewalk cafe permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.

11. The sidewalk cafe permit covers only the public right of way described in the permit. Tables and chairs on private property will be governed by other applicable regulations.

12. Sidewalk cafes shall not operate after 10:00 p. m. or before 6:00 a. m.

13. The use of a portion of the public right of way as a sidewalk cafe shall not be an exclusive use. All public improvements, including, but not limited to trees, light poles, traffic signals, pull boxes, or manholes, or any public initiated maintenance procedures, shall take precedence over said use of the public right of way at all times. The Chief of Police or designee may temporarily order the removal of the sidewalk cafe for special events, including but not limited to, parades, sponsored runs or walks, or for public health and safety.

14. The city, its officers and employees, shall not be responsible for sidewalk cafe fixtures that are relocated or damaged.

G. Alcohol licensing. Alcohol beverages are not allowed on the public sidewalk at any time. Such activity is governed by chapters 5.28 and 9.52 of the city code of ordinances and by state laws. Notwithstanding the foregoing, the sale and service of alcohol beverages by full service restaurants located in the downtown or Water Street areas may be permitted, provided an expansion of the premise is approved by the City Council for the area described in the sidewalk cafe permit.

H. Liability and insurance. The permittee agrees to 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 permittee's activity on the sidewalk cafe.

1. Commercial liability insurance in the amount of at least \$1,000,000 per occurrence for bodily injury and property damage, with the city of Eau Claire named as an additional insured, shall show that the coverage extends to the area used for the sidewalk cafe.

2. The permittee shall provide the city with an original certificate of insurance as evidence that the requirements set forth in this section have been met prior to commencing operations.

I. Revocation or suspension. The approval of a sidewalk cafe permit is conditional at all times. A sidewalk cafe permit may be revoked or suspended by the director of engineering or 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 this section, the city code of ordinances, or applicable state or federal law.

J. Appeal. A revocation, suspension, or denial of a permit may be appealed by the permittee

to the administrative review board under ch. 1.06. The permit suspension or revocation shall remain in effect pending the hearing.

K. Penalty. The penalty for violation of this section shall be a forfeiture of not less than \$50 or more than \$500 per day for each violation, together with the costs of prosecution. (Ord. 7378, §1 2020; Ord. 7202, 2016; Ord. 6586, 2005).

**5.28.037 Sidewalk cafes in the downtown and Water Street areas.** A. Introduction and definitions. No holder of a “Class B”, Class “B”, and/or “Class C” license may operate under said license(s) in a sidewalk cafe, as defined in s. 13.12.062 B., in the downtown and Water Street areas, without first having obtained administrative approval, subject to the conditions of this section. Administrative approval under this section shall result in the sidewalk cafe becoming a temporary seasonal part of the licensed premise, concurrent with and conditioned upon a valid sidewalk café permit, with the sidewalk cafe also being subject to all state and city laws, rules, regulations, and lawful order governing “Class B”, Class “B”, or “Class C” licenses.

Administrative approval shall consist of issuance of a temporary seasonal license expansion by the city clerk upon applicant meeting all requirements herein and review and no objection from the City of Eau Claire’s License Review Committee.

B. Application. A request for a temporary expansion of the licensed premises to include a sidewalk cafe shall be made in writing to the city clerk. The request shall also include a completed application for the sidewalk cafe and site plan per s. 13.12.062 D.

C. Requirements. Sidewalk cafes approved under this section shall be subject to the following requirements. City council may impose additional requirements at its discretion.

1. The service and consumption of alcohol beverages in the sidewalk cafe shall be limited to the hours of operation of the sidewalk cafe per s. 13.12.062 F. 13.

2. Alcohol beverages shall only be served to patrons of the establishment by a server in the sidewalk cafe. There shall be no carry-out or carry-in of alcohol beverages by the patron to and from the sidewalk cafe.

3. Patrons of the establishment in the sidewalk cafe shall remain seated at the table when consuming alcohol beverages.

4. Alcohol beverages shall only be served to patrons of the establishment with food service in the sidewalk cafe.

5. Compliance with all city and state alcohol related laws, rules, and regulations.

D. Responsibility of licensee. The license holder shall, in addition to all other requirements of the law, the city liquor license, and this section, 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. Reasonable steps may include, but not be limited to, the use of portable barriers or fences, supervision of the outside area by security and staff personnel, or surveillance electronic monitors. Failure to take reasonable steps and use them at all times in the sidewalk cafe is grounds for suspension or revocation of the sidewalk cafe permit under s. 13.12.062 I.

E. Responsibility of patrons. No person shall leave the sidewalk cafe area listed in the permit with an alcohol beverage. Any person doing so shall be in violation of city ordinance s. 9.52.030 prohibiting the consumption of alcohol or possession of open containers on streets.

F. Suspension or revocation. In the event a sidewalk cafe permit is suspended or revoked under s. 13.12.062 I., service of alcohol in the sidewalk cafe area shall not be permitted.

G. Approval by city council. Administrative approval of the sidewalk cafe as part of the licensed premise shall not be granted or renewed under this section without a valid sidewalk cafe permit and compliance with all of the above requirements. City Council approval shall be required for the issuance or renewal of any expansion if the License Review Committee objects to the license expansion, additional requirements are deemed necessary by License Review Committee and not agreed to by applicant, repeated noncompliance with any of the requirements of this code or s. 13.12.062, or if any property owners within 100 feet of the proposed license expansion files a written objection with the city clerk prior to issuance or renewal. (Ord. 7378, §2 2020; Ord. 6587, 2005).