



SIDEWALK CAFÉ PERMIT APPLICATION

Business/Trade Name: _____

Applicant Name (if different from above): _____

Business Address: _____

Phone Number: _____ E-mail: _____

Cell Number: _____

Application for: (check one)

- Initial Sidewalk Café Permit with Alcohol Renewal of Sidewalk Café Permit with Alcohol
 Initial Sidewalk Café without Alcohol Renewal of Sidewalk Café Permit without Alcohol

Do food sales generate more than 50% of gross receipts? Yes No

If requesting to serve alcoholic beverages, do you have an appropriate liquor license? Yes No

Agent Name: _____

Agent Address: _____

Agent Phone #: _____ Cell #: _____

Agent E-Mail: _____

REQUIRED MATERIALS for Sidewalk Café Permit under WMC 5.63.040: Applications will not be accepted without the following:

- Copy of valid restaurant license**
- Certificate of Commercial General Liability Insurance** in the amount of at least \$1,000,000 per occurrence for bodily injury and property damage naming the City of Wausau as an additional insured and indicating coverage extends to the area used for the sidewalk café.
- Written request of alcohol license amendment.** If the applicant wishes to serve alcohol in the sidewalk café area, the applicant must currently hold a valid license to serve alcohol, and must include a written request to amend the license. The written request shall describe how signage will be displayed to prohibit alcohol beverages from being carried outside the seating area. The request must indicate the hours alcohol will be served and acknowledge that alcohol will not be served or consumed in the sidewalk café area beyond 10 p.m. All other alcohol related ordinances and state statutes apply.
- Scaled Diagram.** A layout, drawn to scale, on 8.5"x11" paper, suitable for reproduction, which accurately depicts: the frontage of the applicant's restaurant facing the sidewalk area requested for use as a sidewalk café, The layout shall the proposed location of the sidewalk café, size and number of tables, seats, umbrellas and other amenities. In addition, existing doorways, steps, width of sidewalk(distance from curb to building face, location of trees and tree wells, sidewalk benches, planters or planting beds, trash receptacles, parking meters, utilities including fire hydrants and light fixtures, mailboxes and any other sidewalk obstructions shall be presented on the plan. *Site plan must depict four (4) feet of unobstructed sidewalk for public use.*
- An application fee:**
- | | |
|--------------------------|--|
| a) New Permit - \$45 | c) New Permit w/alcohol expansion - \$80 |
| b) Permit renewal - \$20 | d) Permit renewal w/alcohol expansion - \$40 |

CITY OF WAUSAU LICENSE APP – Amend Premise Description
SIDEWALK CAFES with ALCOHOL ONLY

407 GRANT STREET, WAUSAU WI 54403, PH # (715) 261-6620

Date of Application: _____ Licensing Year: _____

Name of Applicant: _____

Trade Name: _____ Business Address: _____

Current Premise Description on License: _____

PROPOSED Premise Description: _____

I hereby certify the foregoing answers are true and correct. I agree, in consideration of the grant of this license, to comply with the laws of the State of Wisconsin, the Municipal Code and the rules and regulations of the various regulatory agencies and commissions the City of Wausau pertaining to the supervision of activities permitted under the license for which this application is made. I understand this license may be revoked by the issuing authority according to the law.

OTHER REQUIREMENTS:

Describe how signage will be displayed to prohibit alcohol beverages from being carried outside the seating area.

Indicate the hours alcohol will be served, acknowledge that alcohol will not be served or consumed in the sidewalk café area beyond 10:00 pm. _____

Approval is required by Public Health & Safety and Common Council prior to operation!!

Applicant Signature

(Print Name)

Sent to PH&S Committee: {date} _____

Recommendation: _____

Sent to Council {date} _____

Action: _____

**JOINT ORDINANCE OF ECONOMIC DEVELOPMENT AND
PUBLIC HEALTH & SAFETY COMMITTEE**

Amending Chapter 5.63 Obstructions within the Central Business District Public Rights-of-way – sidewalk cafes

Committee Action: ED Approved 5-0 **Ordinance Number:** 61-5572
PH&S: Approved 5-0

Fiscal Impact: Increased revenue due to sale of permits

File Number: 01-0832 **Date Introduced:** June 11, 2013

That the Common Council of the City of Wausau do ordain as follows:

Section 1. That Chapter 5.63, obstructions within the Central Business District public rights-of-way, is hereby amended to read as follows:

5.63.010 Intent and purpose The City of Wausau supports a vibrant central business district and recognizes the social and economic benefit in allowing certain activities to take place within the public right of way. Such uses include sidewalk cafes and other obstructions including, but not limited to self-supporting signs, sandwich board signs, works of art, planters, potted plants, statues, and other similar types of objects. Specifically, the City finds and determines:

(a) That there exists a need for outdoor eating facilities within the central business district to provide for a unique environment for relaxation, social interaction and food consumption.

(b) 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 the Central Business District.

(c) Regulating the use of public rights-of-way through permitting will ensure that a high quality appearance is maintained and that sidewalks remain safe and accessible to pedestrians.

5.63.020 Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

(a) "Central business district" shall mean the qualifying properties lying within the area on the east side of the Wisconsin River bounded by 5th Street on the east, 1st Street on the west, Grant Street on the north and Washington Street on the south and on the west side of the Wisconsin River bounded by 1st Avenue on the east, 3rd Avenue on the west, Elm Street on the north and Stewart Avenue on the south. The permitted area includes sidewalk on both sides of a

described boundary street except for Stewart Avenue which includes only the north side of the sidewalk.

(b) "Sidewalk cafe" means an expansion of a full service restaurant creating an outdoor dining facility on part of the public right of way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the full service restaurant adjacent thereto.

(c) "Full service restaurant" means an establishment requiring a State of Wisconsin restaurant license and whose food sales are greater than 50 percent of its gross receipts. Upon request of the city, owners of establishments shall substantiate the percentage of their gross receipts devoted to food.

5.63.030 Permit required. (a) It is unlawful for any person, firm, or corporation to erect, place, maintain, or operate on any public street or sidewalk or in any other public way in the central business district any sidewalk cafe, sign, work of art, planters, statues or other such obstruction without first having obtained a permit from the public health and safety committee of the Wausau common council.

(1) No obstruction permit shall be required in the Central Business District for one period not to exceed five (5) days to conduct an annual sidewalk sale.

(b) Each permit shall be effective for one year from July 1 until the following June 30.

(c) 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.

5.63.040 Application for permit. (a) An initial application for an obstruction or sidewalk cafe permit, a renewal or transfer shall be made, in writing, to the Inspections Division of the Department of Public Works upon such form as shall be provided by the department and shall contain the following:

(1) The name and address of the applicant.

(2) A detailed description of the proposed obstruction.

(3) The proposed specific location of said obstruction.

(4) A current certificate of insurance as required by subsection 5.63.070 of this section.

(b) An application for a sidewalk cafe permit shall also require in addition to those requirements of subsection (a) above:

(1) A copy of a valid restaurant license.

(2) The initial application shall contain such information which the department may prescribe and require.

(3) A non-refundable application fee, as stated in the City of Wausau Fees and Licenses Schedule, Section 3.40.010(a).

(4) If the applicant intends to sell or serve alcohol beverages to patrons of the sidewalk cafe, the applicant shall first obtain a retail alcohol beverage license describing the outdoor area where alcohol beverages will be sold, served or consumed pursuant to Chapter 5.64.

(c) Upon receipt of an obstruction permit application by the Inspections Division of the Department of Public Works, the zoning administrator shall review the application for completeness and provide a copy of the application to the fire chief, police chief, city attorney, community development director, director of public works, chairperson of the preservation commission and chairperson of the public health and safety committee.

5.63.050 Permit Fees. (a) The initial application fee for an obstruction permit or sidewalk cafe permit with or without alcohol license expansion shall be as stated in the City of Wausau Fees and Licenses Schedule, Section 3.40.010(a).

(b) The annual renewal fee for an obstruction permit or sidewalk cafe permit with or without an alcohol license expansion shall be as stated in the City of Wausau Fees and Licenses Schedule, Section 3.40.010(a).

5.63.060 Sidewalk Cafe Standards. The following standards, criteria, conditions and restrictions shall apply to all sidewalk cafes, provided, however, that the director of public works 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 ordinances, and all applicable state and federal laws.

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

(b) Tables, chairs, umbrellas or other fixtures in the sidewalk cafe:

(1) Shall not block designated ingress, egress, or fire exits from or to the establishment of any other structure.

(2) 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.

(3) Shall be removed when the sidewalk cafe is not in operation.

(4) Must remain within the designated boundaries when seating is filled to capacity.

(c) 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 purposes of minimum clear path, trees, plantings, parking meters, traffic signs and similar obstacles shall be considered obstructions.

(d) No portion of any sidewalk cafe may encroach on the sidewalk adjacent to any other property other than the property that is permitted in this chapter.

(e) The sidewalk cafe and the sidewalk and roadway immediately adjacent to it, shall be maintained in a clean, sanitary and safe manner. Debris shall be removed as required throughout the day and at close of each business day.

(f) Umbrellas or other shade materials shall be treated canvas, cloth or similar material that is manufactured to be fire-resistant. No portion of an umbrella or other shade material shall be less than seven feet above the sidewalk.

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

(h) No amplified entertainment shall be allowed in the sidewalk cafe unless authorized as part of a special event. Amplified entertainment means any type of music or other entertainment, whether live or recorded, delivered through and by an electronic system including related equipment such as speakers, microphones, televisions or other audio or video devices.

(i) 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.

(j) 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, manholes, or any public initiated maintenance procedures shall take precedence over said use at all times. The director of public works or his/her designees may temporarily order the termination of sidewalk cafes for the following reasons, but not limited to, special events, including construction, parades, sponsored run walks, or for any reason to maintain health, safety, welfare of the public.

(k) Molded plastic tables and chairs are not permitted.

(l) No smoking is allowed within the limits of a sidewalk cafe during the hours of operation.

(m) Sidewalk cafes shall not operate after 10 p.m. or before 6 a.m.

(n) Table and chairs and other components of the sidewalk cafe shall be removed nightly.

(o) 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.

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

5.63.070 Liability and Insurance. 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.

(a) Commercial liability insurance in the amount of at least \$1,000,000 per occurrence for bodily injury and property damage, with the city of Wausau named as an additional insured, shall show that the coverage extends to the area used for the sidewalk cafe, and shall provide that the policies of insurance shall not be cancelled, nonrenewed, or altered without 30 days prior written notice to the city.

(b) 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.

5.63.0480 Committee action. (a) The public health and safety committee shall, within thirty days of receipt of a completed permit application, act to approve, approve conditionally, or reject the permit application. Failure of the committee to act within this time period shall be deemed a denial of the requested permit.

(b) The committee may place any conditions it deems appropriate on approval of the obstruction permit application, including special provisions for maintenance of the obstruction and any other requirements.

(c) Any requirements placed on issuance of the obstruction permit shall be acknowledged as acceptable by the permit applicant prior to issuance of the obstruction permit by the Inspections Division of the Department of Public Works.

5.63.090 Transfer of Permit. Except as provided under 5.63.030(c), permits issued under this chapter may not be transferred to another individual, business, corporation, or other entity.

5.63.100 Revocation.

(a) An obstruction permit may be suspended or revoked by the director of public works or designee where necessary to protect the public health, safety and 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 federal or state laws. If the obstruction poses an immediate threat to the public, the director of public works may have the obstruction removed immediately.

(b) A sidewalk cafe permit may be revoked, suspended or not renewed for a violation of any provision of city ordinances, or applicable state law by the Public Health and Safety Committee, upon the complaint of the police chief or designee, or director of public works or designee according to the following procedure:

(1) A hearing shall be held before the Public Health and Safety Committee upon at least three (3) days' written notice to the permittee of the hearing date and time and of the charges alleged.

(2) At the hearing, the police chief or designee or director of public works or designee shall present evidence of any alleged violations. The permittee may appear in person with or without counsel and shall be allowed to question witnesses and present evidence.

(3) At the conclusion of the hearing, the committee shall make a recommendation to the Common Council whether there exists cause for non-renewal, suspension or revocation, which recommendation shall be considered at its next regularly scheduled meeting.

5.63.105 Appeal of Denial of Permit. The appeal of a denial of an obstruction or sidewalk cafe permit under this chapter shall be made as provided in chapter 2.21 of this code.

5.63.110 Existing Permits. Permits in existence on the date of enactment of this ordinance shall expire on March 31, 2014.

5.63.120 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.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall be in full force and effect from and after its date of publication.

Adopted: 6/11/13
Approved: 6/12/13
Published: 6/14/13
Attest: 6/12/13

Approved:

James E. Tipple, Mayor

Attest:

Toni Rayala, Clerk

ORDINANCE OF PUBLIC HEALTH & SAFETY COMMITTEE

Creating Section 5.64.035 Alcohol licensing and serving of alcohol beverages - sidewalk cafes

Committee Action: Approved 5-0

Ordinance Number: 61-5575

Fiscal Impact: None

File Number: 13-0611

Date Introduced: June 11, 2013

That the Common Council of the City of Wausau do ordain as follows:

Section 1. That Section 5.64.035, alcohol licensing and serving of alcohol beverages, is hereby created to read as follows:

5.64.035 Alcohol Licensing and Serving of Alcohol Beverages. (a) Alcohol beverages are not allowed on the public sidewalk at any time. Such activity is governed by 5.64 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 central business district may be permitted provided an expansion of the premises is approved by the City Council for the area described in the sidewalk cafe permit.

(b) A request for expansion of the licensed premises to include a sidewalk cafe shall be made in writing to the city clerk. The request shall include the completed application along with the additional required documents per 5.63.040.

(c) In addition, the following standards, criteria, conditions and restrictions shall apply:

(1) The entire outdoor area utilized for service and consumption of food and beverages shall be visible from the restaurant establishment.

(2) Alcoholic beverages must be sold and served by the licensee or licensee's employees who have operator's licenses and sold, served and consumed by patrons seated at tables in the sidewalk cafe.

(3) Alcohol beverages may only be served at the sidewalk cafe when food service is available through the licensed establishment.

(4) The service and consumption of alcohol beverages in the sidewalk cafe shall be limited to the hours of operation of the sidewalk cafe.

(5) The permittee shall not allow patrons of the sidewalk café to bring alcohol beverages into the sidewalk cafe, nor to carry open containers of alcohol beverages

about in the sidewalk cafe area, nor to carry open containers of alcohol beverages served in the sidewalk cafe outside the sidewalk cafe area.

(6) The licensee may only serve alcohol in single service cups for consumption in the sidewalk cafe.

(7) The permittee shall display an 8"x11" sign on the restaurants front door or other prominent location communicating that alcohol may only be consumed by patrons seated at tables in the sidewalk cafe.

(8) The bar from which the alcohol beverages are dispensed shall be located inside the establishment and shall not be located in the sidewalk cafe area.

(9) 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 and beverages are not removed from the premises. 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.

(10) In the event a sidewalk cafe permit is suspended or revoked under section 5.63.100, service of alcohol in the sidewalk cafe area shall not be permitted.

(11) Approval by the common council of the sidewalk cafe as part of the license premise shall not be granted or renewed under this section without a valid sidewalk cafe permit.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall be in full force and effect from and after its date of publication.

Adopted: 6/11/13

Approved: 6/12/13

Published: 6/14/13

Attest: 6/12/13

Approved:

James E. Tipple, Mayor

Attest:

Toni Rayala, Clerk