

11.260 Sidewalk Cafes.

(1) Definition.

Renewal permit shall mean a permit that is applied for, by January 31st of any given year, by a currently valid sidewalk cafe permit holder. All other permits shall be designated as initial application permits.

Sidewalk shall have the meaning given in Wis. Stat. § 340.01(58).

Sidewalk cafe shall mean any group of tables, chairs, benches, barriers or partitions, trash containers and suitable decorative devices maintained upon any part of the sidewalk for use by an establishment, with a valid restaurant permit, for the sale to the public of prepared foods, refreshments and beverages of all kinds.

Zoning districts shall be defined by Chapter 15 MMC.

(2) Location. Sidewalk cafes shall be permitted on public sidewalks in any "B," "C" and "I" zoning districts where allowed by the City's zoning ordinances. The sidewalk cafe shall be located only on that portion of the public sidewalk which is directly adjacent to the building, or portion of the building, where the permittee's business is located.

(3) Permit Required.

(a) It shall be unlawful for any person to sell or offer to sell any food and/or drink at a sidewalk cafe, unless such person shall have first applied for and obtained a sidewalk cafe permit.

(b) Special events using the right-of-way for a limited time period, which period does not exceed a maximum of seven days, are exempted from the requirement of obtaining a sidewalk cafe permit. These events include, but are not limited to, any downtown special event sponsored by the City of Manitowoc or approved by the City's Special Events Committee.

(c) Establishments holding a sidewalk privilege agreement with the City for their sidewalk cafe at the time in which the ordinance codified in this section becomes effective are grandfathered in, and shall not require a sidewalk cafe permit unless their sidewalk privilege agreement has been terminated.

(d) A sidewalk privilege agreement shall not be valid for the operation of a sidewalk cafe, except as stated under subsection (3)(c) of this section.

(e) The Board of Public Works shall not have jurisdiction in matters of sidewalk cafes.

(4) Procedure.

(a) An applicant for a permit under this section shall obtain an application form provided by the City Clerk, and shall supply such information as the Clerk requires. The completed form shall be returned to the City Clerk, along with the appropriate fee and proof of insurance. The application shall be signed by the applicant and by the applicant's landlord if the applicant is a tenant at the premises where the sidewalk cafe will be located. The initial application shall be accompanied by a drawing to scale of the site to be used as the sidewalk cafe, showing the location of all trees, poles, furniture, equipment, fixed and portable barriers and other items that will be located in the sidewalk cafe. The initial application shall also be accompanied by photographs, pictures from a sales catalog or detailed renderings of the furniture and equipment being considered for use, with dimensions and color included. Whenever furniture or equipment is updated or changed, the permittee shall provide the City Clerk photographs, pictures, or detailed renderings of same prior to installation. All renewal applications in which changes are being made to the area used, the furniture, furnishings, equipment and barriers shall also comply with the requirements of an initial application.

(b) If the applicant intends to sell or serve alcoholic beverages to patrons of the sidewalk cafe, the applicant shall obtain the appropriate alcohol beverage license describing and including the outdoor area where alcoholic beverages will be sold, served or consumed.

(c) The City Clerk shall send a copy of all complete sidewalk cafe applications and renewal permits to the City Planner and Chief of Police or the Chief of Police's designee for a recommendation as to whether the applicant is a proper recipient of a permit. The City Planner's and Chief of Police's or designee's recommendation shall be sent to the Finance Committee for consideration. Applications approved by the Finance Committee shall be sent to the Common Council for final approval. The City Clerk shall notify the applicant of Council's final determination.

(5) Limitation on Number of Permits Issued. No more than one permit may be issued for every 1,000 persons residing in the City based upon the latest estimate of the Wisconsin Department of Administration.

(6) Permit Period. The permit year shall commence on the first day of January each year, or thereafter when applied for, and shall expire on the thirty-first day of December following its issuance.

(7) Permit Fee. The annual cafe permit fee of \$75.00 shall be paid to the City Clerk at the time of application submission and by January 31st of each renewal year thereafter. The permit fee shall not be prorated and is nonrefundable except that permit fees paid with initial applications that are denied shall be refunded.

(8) Revocation, Suspension, Nonrenewal. All revocations, suspensions or nonrenewals of sidewalk cafe permits shall be in accordance with City procedure as approved by the Finance Committee.

(9) Insurance. No person shall obtain a sidewalk cafe permit unless the applicant procures and maintains the following policies of insurance from an insurance company licensed to do business in the State of Wisconsin in the amounts and coverages set forth below covering the sidewalk cafe area:

(a) **Commercial General Liability.** The applicant shall procure and maintain a commercial general liability policy with the following minimum standard limits:

1. Bodily injury/property damage, per occurrence	\$1,000,000
2. General aggregate limit	\$1,000,000
3. Products/completed operations	\$1,000,000
4. Personal and advertising injury limit	\$1,000,000
5. Medical expense limit – any one person	\$5,000

(b) **Worker's Compensation.** The permittee shall provide a worker's compensation policy with the limits prescribed by Wisconsin State Statutes.

(c) **Liquor Liability.** If alcohol is served, the permittee shall provide a liquor liability policy with limits of at least \$500,000.

(d) **Certificate of Insurance.** At time of application submission and renewal fee submission, the permittee shall provide the City with a certificate of insurance illustrating coverage as required by this section, naming the City of Manitowoc as additional insured and certificate holder, and providing a 30-day written notice of cancellation to the City.

(10) Signage. No signs shall be allowed in the sidewalk cafe area except the following:

(a) Table umbrellas approved by the City Planner or designee.

(b) Any signs for which the permittee has obtained a sign permit as required by Chapter 15 MMC.

(c) The permittee shall post a sign clearly visible for its patrons which lists the rules contained in this section and, if appropriate, those contained in subsection (17) of this section governing the conduct of patrons of the sidewalk cafe. This sign shall comply with Chapter 15 MMC.

(d) Hand-held menus and tabletop documents such as wine lists or information pertaining to the business shall not be considered signs for purposes of this section.

(11) Furnishings. All furniture, furnishings, and equipment shall be of safe, sturdy construction and shall be maintained in good repair. All umbrellas shall be anchored in such a way that a sudden burst of wind will not lift them out of their holders or blow them over. No public property, including, but not limited to, light poles, utility poles, flower planters, trees or other amenities, may be used as a point of attachment for anything, including, but not limited to, ropes, posters or signs.

(12) Hours. No sidewalk cafe shall be open for business between the hours of 12:00 midnight and 8:00 a.m.

(13) Lighting. The permittee shall keep the sidewalk cafe area sufficiently illuminated so as to prevent injury to persons using the same. Any lighting of the outdoor area shall be shielded so as not to shine directly onto adjoining property or create a glare which is distracting to adjoining property or vehicles traveling in the public right-of-way.

(14) Music/Noise. There shall be no amplified music or sound unless the permittee can demonstrate to the satisfaction of the Finance Committee that it shall not cause a disturbance. There shall be strict compliance with the loud noise ordinance, MMC 14.140. Any violation shall be the responsibility of the permittee whether or not the permittee is present upon the premises at the time of the violation.

(15) General Restrictions.

(a) The permittee shall remove all furniture, furnishings, equipment, portable barriers and all visible evidence of the sidewalk cafe, any time that the sidewalk cafe is closed, service is prohibited or service is not being offered to the public at the sidewalk cafe.

(b) The permittee shall provide at least three feet of unobstructed sidewalk for pedestrian right-of-way through or around the sidewalk cafe, and shall not place anything within two feet of the curb or street.

(c) The permittee shall comply with all applicable requirements of the Americans with Disabilities Act, 42 USC 12101 to 12213, and all applicable Federal, State and local laws.

(d) No furniture, furnishings, equipment, or portable barriers shall be placed so as to obstruct access to a fire hydrant or obstruct one's view of the hydrant from the street, or which would obstruct the clear view of any street or traffic regulatory signs or pathway, including, but not limited to, the pathway from alleyways, driveways or any vehicle traffic path.

(e) Sidewalk cafes shall not be permitted at any of the following locations:

1. Within five feet of the sides of bus shelters or bus stops, nor arranged in any manner which interferes with the use of the bus stops or with ingress or egress from any bus shelter.

2. Within five feet of a curb-out or a marked crosswalk.

3. On any portion of a public sidewalk beyond the width of the permittee's property line.

4. Within five feet of any truck, freight, or passenger loading zone, or adjacent to any handicapped parking space or loading zone.

5. Within 100 feet of any residential dwelling if the sidewalk cafe is located in an "R" zoning district unless an exception was made by Common Council at time of permit application based upon a petition filed with Common Council indicating at least 50 percent of the property owners within 100 feet of the proposed cafe location do not object.

6. Outside of the approved cafe boundaries as established in the permit application and approved by Common Council.

(16) Maintenance. The permittee shall pick up all trash from the sidewalk cafe on a regular basis throughout the day, and shall keep the cafe area in a clean, orderly, litter-free and hazard-free condition. The permittee shall provide covered trash containers for the customers. The permittee shall not place any solid waste in the City solid waste containers.

(17) Service of Alcoholic Beverages. The City of Manitowoc allows permittees to serve alcoholic beverages in outdoor cafes; provided, that the permittee complies with all the requirements for obtaining an alcoholic beverage license, and the sidewalk cafe is listed on the alcohol beverage license application as being an extension of the licensed premises. Alcohol may be served at sidewalk cafes if:

- (a) The permittee has a valid and appropriate retail alcohol beverage license issued by the City of Manitowoc;
- (b) The retail alcohol beverage license includes the sidewalk cafe in the description of the licensed premises;
- (c) The retail alcohol beverage license permits the sale of the type of alcohol beverages being served in the sidewalk cafe;
- (d) Alcohol beverages are sold and served only to patrons at tables within the sidewalk cafe area by the licensee or licensee's employees in compliance with the alcohol beverage laws of the State of Wisconsin and the City of Manitowoc;
- (e) The permittee shall be responsible for policing the sidewalk cafe area to prevent underage persons from entering or remaining in the sidewalk cafe, except when underage persons are allowed to be present on the licensed premises pursuant to Wis. Stat. Ch. 125;
- (f) The permittee shall not allow patrons of the sidewalk cafe to bring alcohol beverages into the sidewalk cafe area from another location, 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;
- (g) Alcoholic beverages shall not be in the sidewalk cafe area between 12:00 midnight and 8:00 a.m.

(18) Permittee's Responsibility. Permittee shall be responsible for the acts of all employees, patrons and agents of the business. A violation of any provision of this section, any City ordinance or Wis. Stat. Ch. 125, by a patron, agent or employee of the permittee, shall constitute a violation by the permittee.

(19) Penalty. Any person who violates subsection (3) of this section shall be subject to a forfeiture of not less than \$500.00, nor more than \$1,000. Any person who violates any other subsection of this section shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00. Each day of a violation is a separate offense.

[Ord. 19-160 § 1, 2019. Prior code § 11.21]

The Manitowoc Municipal Code is current through Ordinance 19-458 and legislation passed through April 16, 2019.

Disclaimer: The City Clerk's Office has the official version of the Manitowoc Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Code Renumbering: The City of Manitowoc reformatted their code in 2011. If you are looking for the text of an ordinance under the previous numbering system, please look to the cross-reference table (ManitowocOT/ManitowocOTA.html) .

City Website: <http://www.manitowoc.org/>
(<http://www.manitowoc.org/>)
City Telephone: (920) 686-6950
Code Publishing Company
(<https://www.codepublishing.com/>)