

**VILLAGE OF LITTLE CHUTE
ORDINANCE NO. 6, SERIES OF 2012**

**AN ORDINANCE AMENDING CHAPTER 40 STREETS, SIDEWALKS & OTHER PUBLIC PLACES,
ARTICLE IV – EXCAVATIONS, OBSTRUCTIONS & ENCROACHMENTS
SECTION 98 SIDEWALK CAFES OF THE VILLAGE OF LITTLE CHUTE MUNICIPAL CODE**

BE IT ORDAINED by the Village Board of Trustees, Village of Little Chute, Outagamie County, Wisconsin as follows:

Section I. Chapter 40, Article IV, Section 98 of the Village of Little Chute Code of Ordinances is hereby amended as follows.

Sec. 40-98. - Sidewalk cafes.

(a) *Definitions.*

(1) *Central Business District (CB)* means that portion of the downtown area of the Village of Little Chute that has been designated as such on the official zoning map of the Village of Little Chute.

(2) *Sidewalk* means that portion of a highway or between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, constructed for use of pedestrians. Wis. Stats. § 340.01(58). Sidewalk does not include the bumpout area.

(3) *Sidewalk café* means the area of a public sidewalk described in a sidewalk café permit which allows the permit holder to serve food and/or non-alcoholic beverages to the public and to place furniture/furnishings in that area.

(4) **Initial Application** means the **first** sidewalk café permit applied for **on official Village forms** by the establishment's owner or licensee.

~~(5) **Renewal application** means a permit that is applied for by April 1 each year by a current valid sidewalk café permittee.~~

(b) *Permit required.* No person, partnership or corporation or their agents or employees shall operate a sidewalk cafe without first having obtained a permit to do so by the village.

(c) *Locations and standards for sidewalk cafes.* Sidewalk cafes shall only be permitted on public sidewalks in the Central Business District. A sidewalk café shall be located only on that portion of the public sidewalk which is adjacent to the building:

(1) The outdoor service area shall be limited to the length of the building façade of the licensed restaurants designated address.

(2) At least five feet of the sidewalk must remain open to and be easily accessible for pedestrian or other traffic. The required five-foot sidewalk area to remain open for pedestrians does not include the bumpout area or area alongside the curb.

(3) There must be no interference with the flow of vehicular traffic nor interference with any designated public parking space.

(4) Outdoor service shall be permitted from ~~May~~ March 1 through October 31 weather permitting. No outdoor furniture or fixtures shall be allowed on the public right-of-way during snow events when snow shoveling, plowing or snow clean-up is required in the downtown area. Hours of outdoor service shall be allowed between 6:00 a.m. and 10:00 p.m. All outdoor eating facilities including tables and chairs shall be removed from right-of-way by 10:00 p.m.

(5) Tables, chairs or other fixtures in the sidewalk café shall not block designated ingress, egress, or fire exits from or to the establishment or any other structure. All fixtures 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. All fixtures should be constructed of such material as to withstand the elements and is intended for outdoor seating use. Umbrellas are permitted up to a maximum size of 6.0 ft. and they shall not display any advertising other than the establishment's business name. No candles or other artificial lighting, no condiments and no accessories of any kind shall remain on any table or furniture unless the table or furniture is occupied.

(6) *Sanitation.* The outdoor café shall maintain the outdoor service area and adjacent right-of-way sidewalk in a clean and sanitary manner as well as be responsible for removing any litter, grease, beverage-food stains, or other unsightly conditions caused by the outdoor service. No food preparation, food storage, refrigeration, apparatus, or equipment shall be allowed in the sidewalk café.

(7) *Signs.* No signs shall be allowed except for Village issued sandwich board signs authorized by permit.

(d) *Application procedures.* The procedure to obtain a permit for outdoor restaurant service on the public right-of-way or sidewalk shall consist of the following:

(1) The applicant shall file the application form provided by the village clerk. The application shall be signed by the applicant and, if the restaurant is operated by a tenant, the application must also be signed by the applicant's landlord.

(2) The applicant must pay the required sidewalk café permit fee when filing the original and renewal application.

(3) The application must be submitted at least 14 days prior to review by the village board. (Permit applications shall be reviewed by the director of community development and the director of public works prior to submission to the village board). ~~renewal applications must be submitted by April 1st of each year.~~

(4) The initial application shall be accompanied by a scale drawing detailing the frontage of the applicant's café or restaurant facing the sidewalk area requested for used 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 well, sidewalk benches, trash receptacles, utilities (including fire hydrants, light fixtures, etc.) and any other items that will be located in the sidewalk café and between the sidewalk café and the street curbing. Photographs, pictures from catalogs, or detailed drawings of the furniture and equipment proposed for use, with dimensions and colors, shall be submitted with the applications.

(e) *Insurance required.* No person may obtain a sidewalk café permit unless the permit holder has in force liability insurance and must agree to indemnify, defend and hold the village, its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the village as a result

of any injury or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the permit holder shall furnish a certificate of insurance evidencing the existence of adequate liability insurance naming the Village of Little Chute, its employees and agents as additional insured in an amount not less than \$1,000,000.00. Whenever such policy is cancelled, not renewed, or materially changed the insurer must immediately notify the village.

(f) *Action of village board.* After consideration of the recommendations of village staff, the village board may grant a permit for an outdoor café on the public right-of-way or sidewalk by majority vote. The village board shall have discretion in applying conditions or limitations to the permit as deemed necessary and reserves the right to limit the area of use for an outdoor café.

(g) *Removal by village of sidewalk obstructions and encroachments.* In addition to any other penalty provided under this section, the village president, director of public works, or any village law enforcement officer may order the removal of the sidewalk café fixtures at any time when one or more of the above requirements are not complied with or if it is determined the placement of the fixture(s) endangers the safety of the pedestrians who utilize the sidewalks.

(h) *Revocation of permit.* The village board may temporarily suspend for any reason it finds in the public interest or permanently revoke the outdoor café permit due to violations of village ordinances or other circumstances deemed appropriate for revocation after notice to owner/tenant and hearing before the village board.

(i) *Penalties.* Any violations of the requirements listed in the section shall be subject to the penalties as listed in Section 1-12 of the Village Code of Ordinances.

(j) *Special charges.* If the village removes any objects, litter, or performs cleaning which was the permit holder's responsibility, a special charge may be imposed against the owner and real estate pursuant to Wis. Stats. § 66.0627.

(Ord. No. 3(Ser. of 2010), § 1, 3-3-2010; Ord. No. 11(Ser. of 2010), § 1, 7-7-2010)

Section II: Severability. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or its applications.

Section III: Effective Date. This Ordinance shall become effective on the date of passage and posting.

Date introduced, approved, and adopted: May 2, 2012

VILLAGE OF LITTLE CHUTE

By: _____

Michael R. Vanden Berg, Village President

Attest: _____
Vicki Schneider, Village Clerk