Return Completed Application to:
Department of Planning and Community Development
Commerce Pointe, 77 East Michigan Avenue, Battle Creek, MI 49017

City of Battle Creek, Michigan

APPLICATION FOR SIDEWALK CAFÉ PERMIT

Name of the individual/business:

_____

_____

_____

Address of the proposed sidewalk café:

_____

_____

_____

Is this a new application or a renewal of previously approved permit?
New ____ Renewal ____

Property owner, if other than the applicant:

_____

_____

_____

Dates of proposed sidewalk café use: _____

Proposed hours of operation: _____

Area of proposed sidewalk café (square feet): _____

Number of table and seats proposed in sidewalk café: Tables: _____ Seats: _____

Is there a proposed use of musical instruments and/or sound reproduction systems? If yes, please explain.

_____

_____

Name of Applicant: (Print) _____ **Phone #:** _____

Signature of Applicant: _____ **Date:** _____

Applicant must also provide with this application:

1.) **Written authorization from the owner of the property to submit the application is required where the applicant is not the owner of the affected property.**
2.) **If the public sidewalk in front of an adjacent property is to be used, written authorization is required from that adjacent owner(s).**
3.) **A copy of any certificate, license or permit issued by the County Health Department to sell food for human consumption.**
4.) **An applicant shall provide evidence of general liability insurance in the amount of two million dollars ($2,000,000) naming the City as an additional insured.**
5.) **Site Plan addressing items listed in Chapter 845, Section 845.05 "Site Development Plan".** ***(Attached)***
6.) **Disclosure as to whether alcoholic beverages will be served at the outdoor cafe; and, if so, applicant must provide proof of Michigan Liquor Control Commission authorization for such sales.**

Section 845.05 SITE DEVELOPMENT PLAN REQUIREMENTS

(1) The applicant's entire property and adjacent properties on a location map with streets for a distance of twenty-five feet in all directions, at a scale of one inch equals ten feet or other scale showing adequate detail. The site plan shall be submitted on an 8½ by 11-inch sheet.

(2) The plan must show the design, relevant details and location of all temporary structures such as awnings, planters, landscaping, railings, tables, chairs and other equipment, as well as lighting and electrical outlet locations.

(3) All exterior lighting shall be shown on the site development plan and shall be of such type and location and shall have such shading as will prevent the source of light from intruding on any residential use or causing potential safety concerns for vehicular traffic on the adjacent roadways.

(4) If the use of musical instruments and/or sound reproduction is planned, the number and types of instruments and/or the type of sound reproduction systems shall be identified. In any event, such use shall be governed by the city noise ordinance regulating and prohibiting unnecessary and annoying noises.

(5) Any utility poles, including street light standards or other fixtures within the public sidewalk.

The Department of Planning and Community Development shall distribute copies of the site development plan to the Chief of Police, Fire Chief, City Clerk, City Engineer, Traffic Engineering Manager and the Chief Building Official for review and comments in relation to compliance with this and other city ordinances.

Based upon the review and comments, the Department of Planning and Community Development may approve, approve with conditions, refer the application back to the applicant for modification, or deny the application. If approved, the Department of Planning and Community Development shall authorize the issuance of a sidewalk cafe permit.

If an application submitted pursuant to this chapter is denied, the reasons for denial shall be provided to the applicant by way of a written response. The applicant may then appeal the decision for denial in accordance with Section 845.08.

Section 845.06 SIDEWALK CAFÉ STANDARDS

(a) There shall be a minimum of five feet, six inches, exclusive of the area occupied by the sidewalk cafe, designed to allow safe and efficient adequate pedestrian movement adjacent to the sidewalk cafe and street. Sidewalk cafes shall only be permitted where it is determined that the use will not create a hazard, a sight distance obstruction for motor vehicle operators, nor unduly impede pedestrian traffic. The sidewalk cafe area shall be separated from pedestrian traffic and vehicular traffic by an approved, fixed barrier. Wrought iron or decorative ironwork will serve as an acceptable barrier.

(b) Where on-street parking exists in front of a proposed sidewalk cafe establishment, the area of the public right-of-way dedicated for this off-street parking in front of the establishment may be used to construct a platform that may be used to divert pedestrian traffic around a sidewalk cafe. The prescribed area in which the platform exists, and the design of the platform, must be approved by the City.

(c) Any such platform shall:

(1) Maintain a minimum clear width of five feet, six inches for pedestrian passage;

(2) Be constructed of treated lumber or another similar material approved by the city;

(3) Be of barrier free design;

(4) Be anchored into the pavement with such devices as to meet building code standards, and so as not to cause permanent damage to the paved surface;

(5) The surface must be slip resistant;

(6) The applicant must obtain a building permit to construct the platform, and the actual construction may not interfere with pedestrian or vehicular movement;

(7) Any damages to the city public right-of-way, such as brick, sidewalk, streetlights, signage, parking meters, etc., will be repaired at the owner's expense;

(8) When the sidewalk cafe closes for the season, the platform and all railings and fixtures shall be removed by the owner within one week. The owner shall be responsible for filling in any holes created in the street or sidewalk with such material and by such method approved by the Department of Public Works;

(9) The sidewalk cafe owner will be responsible for clearing snow, ice and other natural or man-made debris from the platform;

(10) A barrier with reflective striping, either of concrete or a solid planter shall be installed before the approach to the platform to provide protection to the sidewalk cafe and pedestrians;

(11) The platform design shall take into account the street's normal stormwater flow, and shall not block any existing stormwater inlets;

(12) Placement of the platform shall be subject to and in conformance with a Temporary Traffic Control Order issued by the Traffic Manager.

(d) Sidewalk cafes may only be located adjacent to the restaurant or food service business with which they are associated. This requirement may be waived, however, to extend the sidewalk cafe to an adjacent property if deemed appropriate after City review and agreeable to the adjacent property owner.

(e) Sidewalk cafes shall be kept free of litter and food scraps at all times. The permit holder shall provide adequate refuse contains and shall not deposit refuse from its operations in city refuse containers. (f) Employees of the associated restaurant or food service business shall continuously supervise outdoor dining areas serving alcoholic beverages. (g) The perimeter of the sidewalk cafe shall be delineated by setting up barriers such as planters or a railing to physically separate patrons from pedestrian traffic. All barriers used for outdoor cafes serving alcoholic beverages shall also conform to Michigan Liquor Control Commission Regulations. A sign reading **"No Food or Beverage Allowed Beyond Railing"** shall be posted at a conspicuous location within the perimeter of outdoor cafes serving alcoholic beverages. (h) Furnishings of sidewalk cafes shall consist solely of readily removable awnings, covers, railings, tables, chairs, planters containing plants and accessories. Furnishings may not be attached, even in a temporary manner, to the sidewalk or other public property, except that covers and railings may be secured by means of flush mounted anchors in a manner approved by the city. No objects that are part of a sidewalk cafe, except lighting fixtures, railing, awnings, or other non-permanent covers, may be attached, even in a temporary manner, to any building or structure that the sidewalk cafe abuts. When the associated restaurant or food service business and sidewalk cafe are not open for use, all furniture and fixtures of the sidewalk café shall be removed or otherwise secured on the public property in a manner that does not create a hazard to the public. (i) No structure or enclosure to accommodate the storage of accumulated garbage may be erected or placed adjacent to or separate from the sidewalk cafe on public property.

(j) A sidewalk cafe shall not interfere with any public service facility, such as, but not limited to a public telephone, mailbox or bench located on a sidewalk. (k) Operation of a sidewalk cafe shall not adversely impact adjacent or nearby residential, religious, educational or commercial properties, and shall be operated in conformance with all applicable codes and ordinances. (l) All electrical wiring and fixtures associated with or part of the sidewalk cafe shall be installed and remain in conformance with the appropriate codes of the City.

(m) Tables, chairs, umbrellas and any other objects provided with the sidewalk cafe shall be of quality design, materials and workmanship both to insure the public safety and convenience of users and to enhance the visual and aesthetic quality of the urban environment. While temporary, all such items must be adequately secured so as to prevent them from being blown off of the sidewalk in inclement weather.

(n) The permit holder shall be responsible for the maintenance and upkeep of all planters and plant materials included in the site development plan as well as any platform used to accommodate and divert pedestrian traffic.

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OPERATING RESTRICTIONS FOR SIDEWALK CAFÉS

Section 845.07

(a) Hours of operation of the sidewalk cafe shall not be greater than those of the adjacent indoor restaurant or food service business from which it operates.
(b) All alcoholic beverages to be served at sidewalk cafes shall be prepared within the adjacent indoor restaurant or food service business, and alcoholic beverages shall only be served to patrons seated at tables. The drinking of alcoholic beverages by a member of the public while a patron at a sidewalk cafe within the confines of the sidewalk cafe area, shall not be construed as a violation of any ordinance controlling open containers in a public area. The operator of the sidewalk cafe shall take whatever steps are necessary to procure the appropriate license from the M.L.C.C. If he or she intends to serve alcoholic beverages in the sidewalk cafe area, and shall comply with all other laws and regulations concerning the serving of alcoholic beverages in the State of Michigan.
(c) The sidewalk cafe permit issued in accordance with this chapter shall be prominently displayed.
(d) The only signage permitted on the public space, including the public sidewalk and the sidewalk cafe area, is a menu board, whose height shall not exceed six feet and, which in no instance shall any face be larger than twelve square feet.
(e) Food or beverage shall not be served to a patron within the sidewalk cafe area unless that patron is seated at a table.
(f) Sidewalk cafes and the public property on which they are located shall be kept neat and clean at all times and free from any substance that may cause damage to the sidewalk or cause pedestrian injury.
(g) The City shall have the right to suspend the operation of a sidewalk cafe because of anticipated or actual problems or conflicts in the use of the public sidewalk. Such problems may arise from, but are not limited to, festivals and similar events, parades, or repairs to the street, sidewalk or utilities within the public right-of-way. To the extent possible, the cafe owner will be given prior written notice of any time period during which the operation of the sidewalk cafe may be suspended.

(Ord. 11-04. Passed 6-1-04; Ord. 07-05. Passed 4-12-05.)

Outdoor Café Program

A mini grant of $200 is offered to help offset the costs of barriers and café furnishings. Staff is available to assist and guide the downtown business owner in their selection of outdoor furnishings, landscape, amenities and upkeep. To further encourage outdoor dining options downtown, licensing and permitting fees have been waived.

For information about this program, contact:

Battle Creek Downtown Partnership
Battle Creek Unlimited
115 West Michigan Ave., Battle Creek, Michigan
Phone: 269.441.1663