

Date: January 18, 2023  
To: City of Bayfield Plan Commission  
From: Tim Schwecke and Charlie Handy  
Subject: City of Bayfield Zoning Code Rewrite  
Memo #6 (Sidewalk Cafes)

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At the meeting on January 24, 2023, the Plan Commission reviewed various sections in Appendix B. Based on our discussion relating to sidewalk cafes, we prepared a complete rewrite of that part. We used the standards from Washburn and specifically required a 4-foot-wide clear pedestrian path.

While we didn't talk about this, the city can prohibit the consumption of alcohol within a sidewalk café, even if otherwise served in the inside restaurant. The most current draft allows it.

Please review the attached draft and we can discuss at our next meeting.

**Series Land Use**

13.08 Sidewalk cafe

**Description:** An outdoor dining area located on public property, typically a sidewalk, and operated as an integral part of an adjacent restaurant where food and beverages are sold or served primarily for consumption on the premises.

*Temporary note: Description from the consultant*



**Districts Allowed as a Conditional Use:** B-1, B-2

**Vehicle Parking:** 1 space for every 3 seats

**Supplemental Standards:**

**(A) Legislative findings.** The Common Council makes the following legislative findings relating to sidewalk cafes:

- (1) When properly designed and operated, sidewalk cafes can enhance the pedestrian ambiance of the City by promoting additional activity on city sidewalks and visual interest; enhance the appropriate use of existing public spaces; and increase economic activity in the area.
- (2) The establishment of general standards is necessary to protect the public health safety and welfare.
- (3) The imposition of permit conditions may be also necessary to protect the public health safety and welfare.

**(B) General location.** A sidewalk café may only be located along the frontage of the restaurant (see exhibit) but may not interfere with fire escapes, drop ladders, building access points, and other points of normal or emergency access. No portion of a sidewalk café shall be located within 5 feet of a curb-cut or a marked pedestrian crosswalk.

**(C) Unobstructed sidewalk.** The area dedicated or used for the sidewalk cafe must maintain an unobstructed sidewalk of at least 4 feet. (See exhibit)

**(D) Signage.** Signs are not allowed in the sidewalk café except as otherwise allowed by the zoning regulations. Table-top menus are not considered signs for the purpose of this part.

**(E) Furnishings.** The operator must use, and maintain in good repair, safe and sturdy furniture, furnishings, and equipment which enhance the aesthetics of the surrounding area. Umbrellas and a floor covering are not allowed.

**(F) Hours.** A sidewalk café may only be open during the hours of the principal restaurant, but in no case shall the sidewalk café be open from 10:00 pm to 7:00 am.

**(G) Music/noise.** The sidewalk café area shall not have music directed to it from speakers nor shall live music take place at the sidewalk café.

**(H) Trash removal.** The operator must remove all trash from the sidewalk café on a regular basis during business hours and keep the sidewalk café area in a clean, orderly, litter-free and hazard-free condition. The operator must remove litter from the abutting properties that may have come from the sidewalk café. The operator may provide covered trash containers for the costumers. The operator shall not place trash in any City trash containers.

**(I) Restroom facilities.** Facilities within the restaurant must be sufficient to adequately serve the additional seating and capacity provided by the sidewalk café as required by the State of Wisconsin Commercial Building Code.

**(J) Non-smoking.** Smoking in a sidewalk cafe is prohibited, pursuant to the authority set forth in § 101.123(4m), Wis. Stats, and § [REDACTED], municipal code

**(K) Alcohol beverages.** The operator may sell and serve alcohol beverages in a sidewalk café consistent with the following conditions:

- (1) The operator has a valid and appropriate alcohol license for the principal premises.
- (2) The alcohol license includes the sidewalk café area in the description of the licensed premises.
- (3) The alcohol license permits the sale of the type of alcohol beverages to be served at the sidewalk café.
- (4) Alcohol beverages are sold and served only to seated customers of the sidewalk café and are served by the licensee or licensee's employees in compliance with the alcohol beverage laws, ordinances and regulations.
- (5) Alcohol beverages may only be served when food service is available through the principal restaurant.
- (6) The operator is responsible for policing the sidewalk café area to prevent underage persons from entering or remaining in the sidewalk café, except when underage persons are allowed to be present on the licenses premises under applicable laws.
- (7) The operator shall not allow patrons of the sidewalk café to bring alcohol beverages from another location, nor to carry open containers of alcohol beverages about in the sidewalk café area, nor to carry

open containers of alcohol beverages served in the sidewalk café outside the sidewalk café area.

**(8)** The bar from which the alcohol beverages are dispensed must be located indoors (i.e., not located in the sidewalk café area).

**(9)** No container of alcohol beverages shall be present in the sidewalk café area between 10:00 pm and 7:00 am.

**(L) Insurance.** The operator must provide and maintain insurance for the sidewalk café as follows if the sidewalk is within a City right-of-way:

**(1)** Commercial General Liability: \$1,000,000 per occurrence/general aggregate.

**(2)** Workers Compensation: statutory.

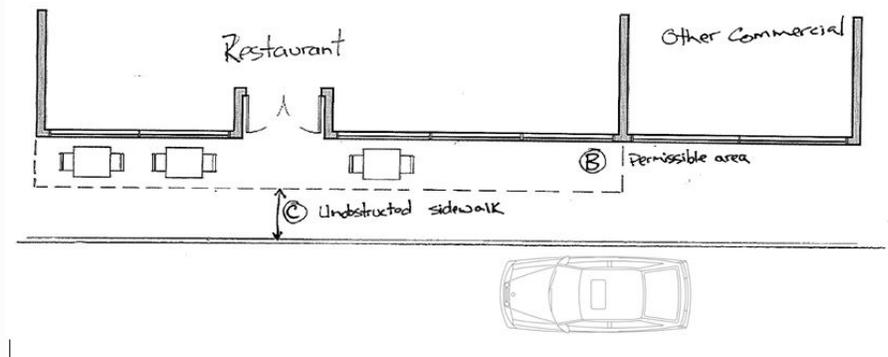
**(3)** Employers Liability: \$300,000 disease policy limit; \$100,000 per employee.

The operator must provide, upon request, policies and endorsements. The policies shall be endorsed to name the city as an additional insured, and shall provide that the policies of insurance shall not be canceled or altered without 30 days prior written notice to the City. The insurance requirements are not intended to waive any immunity or statutory procedures that the City may have or be entitled to under provisions of law.

**(M) Indemnification.** The operator must sign an indemnification agreement provided by the city attorney prior to operation of the sidewalk café.

**(N) State or county approvals.** If a sidewalk cafe is located in a state or county right-of-way, the operator must also obtain the approval of such jurisdictions as appropriate and comply with any terms and conditions of that approval.

Figure: Plan view of minimum sidewalk clearance *(this illustration is a mockup)*



### 13.09 Sidewalk sales

**Description:** A temporary event where retail goods are displayed within the public right-of-way in front of the store. *(verify - does it need to be in front of the store?)*

**Districts Allowed by Right:** B-1, B-2

**Supplemental Standards:**

**(A) Permit required.** Prior to establishing a sidewalk sale, the operator must obtain a special event permit consistent with § 349-18 of the municipal code.

**(B)** Reserved