

AN ORDINANCE to amend Sections 40-103, various subsections of 40-106(3), 32-106(e), 4-45(b), 4-109(b) and 115-398(g) and to create various subsections of 40-106(3) of the Code of Ordinance for the City of La Crosse regarding outdoor dining areas in public right-of-way.

SECTION I: Section 40-103 is hereby amended by revising the following definition:

*Outdoor dining area* means a designated area where dining appurtenances are located on a public street, other adjacent public right-of-way, or a sidewalk within a public right-of-way, partially within the public right-of-way and partially upon private property or, upon private property within an adjacent greenspace or off-street parking spaces, and operated as an integral part of an adjacent business, such as a bakery, candy or ice cream store, coffee shop, food store, grocery, delicatessen, restaurant, tavern, tasting room, or other like establishment for the purpose of outdoor dining.

SECTION II: Section 40-106(3)(a)(3) and (4) are hereby amended and (5) and (6) are hereby created to read as follows:

- (3) *Outdoor dining areas.* The Board may grant a street privilege permit for outdoor dining areas. In addition to those conditions outlined in this article, the following minimum conditions shall apply, unless greater restrictions are imposed by the Board:
- a. In addition to the items required to be provided with the application, the applicant shall provide the following when requesting an outdoor dining area be allowed in the front of its business:
    1. Name, address and phone number of any adjacent business. Where an outdoor dining area will extend beyond the frontage of the applicant's business, a written statement signed by the owners and the tenants of any adjacent businesses fronting the street approving the placement of the outdoor dining area in front of their business.
    2. Nature of business, to include business hours, days and months of operation, the planned capacity of the outdoor dining area, and a lighting and signage plan.
    3. A scaled site plan for an outdoor dining area, to include the location and boundary of the proposed outdoor dining area; the dimensions of the remaining width of the sidewalk outside the outdoor dining area; the dimension from the outdoor dining area to the curb and all buildings; and the location of awnings, dining appurtenances within the outdoor dining area. The plans shall also indicate: existing property lines; associated buildings and entrances; extent of sidewalk adjacent to businesses, face of curb, location of fire hydrants, bus shelters and/or stops, trees, utility poles, signs, benches, light poles, waste receptacles, driveways, alleys, vaults, exterior fire department connections, and any other obstructions within the public right-of-way at the proposed location of the outdoor dining area and for an additional 20 feet there from. Site Plan shall also include dimensions of the proposed outdoor dining area, the number of tables/seats and the distances between them, and the location of all fencing with a description of type and materials.
    4. Identification of zoning district of primary building of business.
    5. Plans for any proposed structures such as raised platforms, enclosures, and/or roofs.
    6. Photos, attachments, and/or renderings or any other information that will help the City better understand, review, and process your application.

SECTION III: Section 40-106(3)(b)(3), (4), (5) and (6) are hereby created to read as follows:

b. *Design regulations.*

1. A clear, continuous pedestrian path, parallel to the curb and not less than four feet in width, shall be required for pedestrian circulation outside of the outdoor dining area. In areas of heavy pedestrian traffic, a width of greater than four feet may be required.
2. All dining appurtenances located in any public way shall not be permanently attached to any sidewalk, curb, building, tree, post, public bench, waste receptacle, or any other fixture within the public right-of-way and shall not impede vision corner clearance requirements.
3. A barrier must be provided to separate the dining area from vehicular traffic. Rigid metal barriers or stanchions are permitted. Concrete barriers on each end of the outdoor dining area are required. Chain link or snow fences are not permitted. Other, free standing, durable fencing may be considered by the Board. Fences or barriers shall be a minimum of at least 42" in height. Height may be reduced in order to meet vision corner clearance requirements.
4. Raised platforms or other structures for outdoor dining may be permitted upon the review and approval of the Board. Review and approval may also be required by the Fire Department. A Building Permit will also be required by the Fire Department.
5. Outdoor dining areas located on public street must not impede stormwater drainage in the gutter.
  - i. No stormwater flow obstruction in curb and gutter. At minimum 30" x 6" opening over curb and gutter should remain unobstructed at any time.
  - ii. No covering or obstructing utilities access points. Proposed structure should not be over and closer than five feet to the nearest edge of the utilities manholes and water valves.
6. Outdoor dining areas should have an emergency exit that meets applicable fire and building codes.

SECTION IV: Section 40-106(3)(c)(3) is hereby amended and (5) and (6) are hereby created to read as follows:

c. *Location regulations.*

1. Locations of outdoor dining areas and other encroachments on the sidewalk shall be limited to areas where the sidewalk pavement width within the public right-of-way is at least ten feet from the face of the curb to the building or property line, except where a reduction is permitted.
2. An outdoor dining area may be located directly adjacent to and abutting the associated food serving establishment, and/or located where it abuts the curb and is at least two feet from the face of the curb. Outdoor dining areas located adjacent to an approved loading zone shall not be required to be located two feet from the face of the curb. In no case shall the pedestrian path be reduced to less than a minimum width of four feet.
3. The outdoor dining area may not include within the proposed area of encroachment, bus stops, fire hydrants, exterior fire department connections, or other facilities deemed necessary for public safety.
4. An outdoor dining area shall be located at least five ten feet from fire hydrants, fifteen feet from crosswalks, and five feet from driveways, alleys, bus shelters and/or stops. In no case shall dining appurtenances greater than three feet in height be located to obstruct the vision clearance triangle as required under this Code.
5. All outdoor dining areas must provide their own trash receptacles and shall not use City of La Crosse trash receptacles.
6. All ADA requirements must be met.

SECTION V: Section 40-106(3)(d)(3), (5), (8), (11), and (13) are hereby amended and (14), (15) and (16) are hereby created to read as follows:

d. *Operational regulations.*

1. All dining appurtenances shall be movable and arranged to adequately accommodate persons with disabilities. Dining appurtenances shall not impede building ingress and egress or encroach in to the pedestrian path at any time. A clear area shall be maintained from all building entrances located adjacent to the encroachment area, to the pedestrian path. The clear area shall have a minimum width of three feet or a width equal to the width of the entrance. The applicant shall provide a trash receptacle for use in the outdoor dining area. Dining appurtenances are only allowed during normal business hours or as otherwise described in this article or by the Board, and shall not remain at the close of business.
2. Umbrellas shall have a vertical clearance of at least seven feet and be adequately secured and anchored with a heavy ballast holder to prevent displacement by the wind.
3. Amplified music and sound, and non-amplified music are prohibited unless permitted by the Board.
4. Outdoor dining areas shall provide adequate lighting in and around the designated area(s) at all times. Lighting fixtures shall be limited to fixtures attached to the building facade or upon private property. Battery operated lamps or candles placed on tables are permitted. Lighting shall not be a public or private nuisance.
5. Portable propane heaters are permitted within the outdoor dining area provided they are in minimum of 80 inches in height and located at least five feet from a building. Propane tanks are not allowed to be stored within the building or within 10 feet of an entrance door to the building. The use and storage of propane tanks must follow the requirements laid out in NFPA 1, Chapter 69 (2012 ed.).
6. Electrical and propane infrared heaters, or similar heating devices approved for outdoor use, are permitted to be attached to building facades and shall be installed according to the manufacturer's specifications and appropriate building, electrical and mechanical code.
7. All food and drink preparation shall be performed in the affiliated business. No food or drink preparation or storage shall be permitted within the outdoor dining area.
8. Operating hours for the outdoor dining areas shall be between the hours of 7:00 a.m. -10:00 p.m. consistent with the operating hours of the associated business, unless the affiliated business is located within 200 feet to a residential zoning district, in which case outdoor dining areas shall not be operated between the hours of 10:00 p.m. and 7:00 a.m.
9. Outdoor dining in outdoor dining areas shall be limited to the designated area identified on the approved application.
10. The sidewalk area within and immediately surrounding the designated outdoor dining area shall be maintained in a clean, sanitary, neat and orderly appearance at all times. The permit holder is responsible for cleaning up of litter, removing all stains and eliminating slip hazards that result from their use or their customers use on a periodic basis during the day and at the close of business each day.
11. Outdoor dining areas and dining appurtenances shall be permitted to occupy sidewalks within the public right-of-way throughout the year; provided, however, snow and ice removal shall be the obligation and at the expense of the permit holder. Outdoor dining areas will not be permitted in public streets from November to April unless permitted by the Board.
12. The approval of an outdoor dining area shall not be construed or deemed to create a vested interest in the public right-of-way. The permit holder shall remove

or modify an outdoor dining area at their own expense whenever the City determines it necessary or desirable to modify the width of the street and/or public sidewalk.

13. Alcohol beverages in the outdoor dining area are prohibited unless approved pursuant to 4-45(b) and/or 4-109(b).

i. ~~Alcohol beverages may be permitted in the outdoor dining area under the Outdoor Café Program adopted by the Common Council. Expansion of the licensed premises must be provisionally approved by the City Clerk pursuant to Section 4-45(b).~~

14. No vertical drinking or dining is permitted; one person allowed per seat in the outdoor dining area.

15. On-street dining areas shall not require streets to be closed.

16. Outdoor dining areas are not permitted on State Highways unless permitted by the Wisconsin Department of Transportation.

SECTION VI: Section 32-106(e) is hereby amended to read as follows:

- (e) Street privilege permits under this section may be granted in accordance with the terms and conditions stated under Article IV of Chapter 40 of the Code, approved by the Board of Public Works and City Clerk, and shall be subject to a permit fee established by resolution pursuant to Section 40-108. ~~approved under the Outdoor Café Program adopted by the Common Council. No permit fee is required as established by resolution.~~

SECTION VII: Section 4-45(b) is hereby amended to read as follows:

- (b) Expansion of licensed premises under this section may be provisionally approved for outdoor dining areas by the City Clerk stated under Article IV of Chapter 40 of the Code, approved by the Board of Public Works and City Clerk, and shall be subject to a permit fee established by resolution. ~~under the Outdoor Café Program adopted by the Common Council.~~ Said request shall be forwarded to the Judiciary and Administration Committee and Common Council for consideration no later than the next regularly scheduled meeting. Fencing for expanded licensed premises will be approved in accordance with Section 40-106(3). ~~the Outdoor Café Program Guidelines. No permit fee is required as established by resolution.~~ Expansion of licensed premises for outdoor dining areas on private property must meet the requirements stated in Section 40-106(3).

SECTION V: Section 4-109(b) is hereby amended to read as follows:

- (b) Expansion of licensed premises under this section may be provisionally approved for outdoor dining areas by the City Clerk stated under Article IV of Chapter 40 of the Code, approved by the Board of Public Works and City Clerk, and shall be subject to a permit fee established by resolution. ~~under the Outdoor Café Program adopted by the Common Council.~~ Said Request shall be forwarded to the Judiciary and Administration Committee and Common Council for consideration no later than the next regularly scheduled meeting. Fencing for expanded licensed premises will be approved in accordance with Section 40-106(3). ~~the Outdoor Café Program Guidelines. No permit fee is required as established by resolution.~~ Expansion of licensed premises for outdoor dining areas on private property must meet the requirements stated in Section 40-106(3).

SECTION X: Section 115-398(g) is hereby amended to read as follows:

- (g) Fences that are required for an outdoor dining area ~~under the Outdoor Café Program~~ will be approved in accordance with Section 40-106(3). ~~the Outdoor Café Program Guidelines.~~ No permit will be required from the City of La Crosse Fire Department Division of Community Risk Management.

SECTION XI: This ordinance shall take effect and be in force from and after its passage and publication.