

CHAPTER 8

Street Use Permit

SEC. 7-8-1 STREET USE PERMITS.

- (a) **PURPOSE.** The streets in possession of the City are primarily for the use of the public in the ordinary way. However, under proper circumstances, the City Clerk may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this Section is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the City can be protected and maintained.
- (b) **APPLICATION.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the City Clerk and shall be filed with the City Clerk. The application shall set forth the following information regarding the proposed street use:
- (1) The name, address and telephone number of the applicant or applicants.
 - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
 - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
 - (4) The date and duration of time for which the requested use of the street is proposed to occur.
 - (5) An accurate description of that portion of the street proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed street area is requested.
 - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
 - (8) Applications for a street use permit must be completed and filed with the City Clerk not less than thirty (30) days prior to the scheduled date of the street use.
- (c) **REPRESENTATIVE AT MEETING.** The person or representative of the group making application for a Street Use Permit shall be present when the Board of Public Works and Common Council gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.
- (d) **REVIEW BY CHIEF OF POLICE AND DIRECTOR OF PUBLIC WORKS.** Before any application for a Street Use Permit is considered by the Common Council, the application shall be reviewed by the Director of Public Works and Chief of Police for their recommendation as to the effect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.
- (e) **MANDATORY DENIAL OF STREET USE PERMIT.** An application for a Street Use Permit shall be denied if:
- (1) The proposed street use is primarily for private or commercial gain.
 - (2) The proposed street use would violate any federal or state law or any ordinance of the City.
 - (3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
 - (4) The application for a Street Use Permit does not contain the information required above.

- (5) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the Common Council may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (f) **PERMIT FEE.** Each application for a Street Use Permit shall be accompanied by a fee of Twenty-five Dollars (\$25.00).
- (g) **ALCOHOL BEVERAGE LICENSES.** If the applicant requests permission to possess, sell or offer for sale fermented malt beverages and/or wine containing not more than six percent (6%) alcohol by volume within the perimeter of the street use permit area, the applicant shall follow the procedure for a Temporary Class “B” Picnic License under SEC. 7-2-1(e)(1) of the Code of Ordinances. The Common Council may impose conditions for the street use permit not inconsistent with a concurrent alcohol beverage license and applicable laws.
- (h) **INSURANCE.**
- (1) The applicant for a Street Use Permit may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the City of Menasha. The applicant may be required to furnish a performance bond prior to being granted the permit.
 - (2) Any street use applicant may apply to meet the insurance requirements through the office of the Risk Manager by purchasing insurance through a TULIP program. (Tenant/Users Liability Insurance Program.) Any fees or costs shall be prepaid by such street use applicant prior to Common Council consideration of any Street Use Permit.
 - (3) The City Attorney or Risk Manager shall review any Street Use Permit Application for satisfactory insurance coverage.
 - (4) Proof of insurance is not required for parades sponsored by the Menasha Public Schools or St. Mary's Central High School.
- (i) **TERMINATION OF A STREET USE PERMIT.** A Street Use Permit for an event in progress may be terminated by the Police Department if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or Ordinances of the City of Menasha. The Chief of Police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.
- (j) The City of Menasha may require a deposit fee to insure that appropriate clean-up or dismantling of structures is done upon the conclusion of the event. This deposit shall be in an amount established by the Common Council.
- (k) The City of Menasha may require any Street Use applicant to pay any costs necessary for additional staffing to maintain safety of participants or the public or to satisfactorily clean up after the event.
- (1) (1) The Chief of Police and Fire Chief are allowed to authorize a use of the streets for a short duration without other compliance with this section.
 - (2) The Common Council may waive any of the requirements of this section in the event of special mitigating circumstances.

- (m) The Common Council may waive any of the requirements of sections 7 – 8 – 1 (c), 7 – 8 – 1 (d) or 7 – 8 – 1 (e) in the event of special mitigating circumstances. Any such motion to waive any of these requirements must state the specific mitigating circumstances.

SEC. 7-8-2 OUTDOOR RESTAURANT SERVICE.

- (a) **Intent.** The intent of this section is to establish standards for the limited use of public right-of-way for outdoor restaurant service by licensed restaurants in the downtown while maintaining right-of-way accessibility, safety historic character of the area.
- (b) **General Standards.** The Common Council may grant a permit to licensed restaurants located in the C-2 Central Business Zoning District for serving food and non-alcoholic beverages on public right-of-way or sidewalks. Such service, referred to herein as “outdoor service,” shall be in compliance with the requirements set forth in this section.
 - (1) Outdoor service shall be allowed by permit only.
 - (2) Outdoor service shall be permitted from May 1 through October 31. Hours of outdoor service shall be allowed between 5:00 a.m. and 10:00 p.m. All outdoor eating facilities (including tables and chairs) shall be removed by 10:00 p.m. each day.
 - (3) All food and non-alcoholic beverages must be prepared in the regular on-site kitchen facilities as approved by the Menasha Health Department.
 - (4) The placement of tables and chairs on the public right-of-way or sidewalks for the purpose of outdoor service shall conform to the following standards:
 - a. The outdoor service area shall be limited to the length of the building facade of the licensed restaurant’s designated address.
 - b. At least five (5) feet of any right-of-way or sidewalk must remain open to and be easily accessible for pedestrian or other traffic. The maximum width of the area utilized for outdoor service shall not exceed five (5) feet from the building facade.
 - c. There must be no interference with the flow of vehicular traffic or interference with any designated public parking space.
- (c) **Sanitation.** The restaurant 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. Such maintenance shall be done on a daily basis.
- (d) **Liability.** Any request for such permit must include an agreement by the licensed premise and property owner to indemnify and hold harmless the City of Menasha for any damages or liabilities whatsoever resulting from the outdoor service on the public right-of-way or sidewalk.
- (e) **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 submit the following information to the City Clerk at least ten (10) days prior to the next scheduled Common Council meeting:
 - a. An application and fee as established by the Common Council.
 - b. A drawing to show the right-of-way or sidewalk to be utilized for outdoor service and the location, number and size of the proposed tables and chairs.
 - c. Liability agreement as described in 7-8-2(d).
 - d. Any other material necessary to evaluate the application.

- (2) The City Clerk shall distribute copies of the application material to the Director of Public Works, Public Health Director, the Police Chief, the Fire Chief, the Community Development Director, and the City Attorney who shall make such appropriate recommendations to the Common Council prior to its consideration. The application shall be placed on the agenda of the next scheduled Common Council meeting.
 - (3) After consideration of the recommendations of City staff, the Common Council may grant a permit for outdoor restaurant service on the public right-of-way or sidewalk by majority vote. The Common Council shall have discretion in applying conditions or limitations to the permit as deemed necessary.
 - (4) All permits are valid on May 1 and expire on October 31 of the same year of its issuance. Applicants may reapply for a new permit on an annual basis.
- (f) **Revocation.**
- (1) The Police, Police Lieutenant or Police Sergeant may order such outdoor service to cease for the balance of that day if in his/her discretion the circumstances so warrant.
 - (2) The Common Council may temporarily or permanently revoke the permit by majority vote due to violations of the Menasha Code of Ordinances or other circumstances deemed appropriate for revocation.
- (g) **Penalties.** Any violations of the requirements listed in this section shall be subject to the penalties listed in Section 1-1-7 of the Menasha Code of Ordinances.