

Village of Menomonee Falls Ordinance No. 876-O-23

AN ORDINANCE AMENDING SECTION 90-5(e) OF THE MUNICIPAL CODE REGARDING REGULATIONS OF THE OUTDOOR CAFE PERMIT.

WHEREAS, it is deemed to be in the best interest of the Village of Menomonee Falls that the Municipal Code of the Village of Menomonee Falls be further modified and amended in the manner hereinafter more particularly set forth;

NOW, THEREFORE, the Board of Trustees of the Village of Menomonee Falls does hereby ordain as follows:

Section 1. Subsection (e) [*Regulations*] of Section 90-5 [*Outdoor café permit*] of Article I [*In General*] of Chapter 90 [*Streets, Sidewalks and Other Public Places*] of the Menomonee Falls Municipal Code is amended as set out below by deleting the language highlighted using the strikethrough feature (~~delete~~) and adding the language highlighted by the underline feature (addition):

(e) *Regulations.*

- (1) *Not in roadway.* An outdoor cafe is permitted only on public sidewalks. The permit area shall be immediately adjacent to the establishment requesting the permit, or on public sidewalks contiguous to the public sidewalk adjacent to the establishment. If the proposed cafe area extends to areas abutting the property of another, the consent of that property owner shall be obtained before such area is approved as part of the permit.
- (2) *Hours of operation.* The hours when service is permitted at the outdoor cafe shall be during 6:00 a.m. and 10:00 p.m.
- (3) *General requirements.* Any person making use of an outdoor cafe shall do so in a reasonable manner with due regard for the health and safety of persons and property. No permittee shall make any physical alteration to public property without the written permission of the department of ~~community development director~~engineering and development. A permittee shall owe a duty to the Village of Menomonee Falls and third persons to maintain the permit area in a clean, safe and sanitary condition.
- (4) *Litter prohibited.* The permittee shall keep the permit area free of litter, cans, bottles and spills at all times. The permittee shall promptly collect and dispose of all litter, trash and other waste materials associated with the outdoor cafe, including waste material in the adjacent public right-of-way. This includes, but is not limited to, cigarette butts, gum, food material, glassware and bodily fluids. The permittee shall dispose of any such waste in their own trash containers only. Permittee shall power wash the permit area as needed to maintain cleanliness of the public sidewalk area.
- (5) *Restoration.* Upon the expiration or other termination of an outdoor cafe; use permit or if operation of the business ceases, the permittee shall immediately remove all tables, chairs, furnishings, equipment and other items of personal property from the permit area. Any such items remaining upon the public right-of-way may be removed and disposed of by the Village of Menomonee Falls at the sole cost and expense of the permittee.
- (6) *Equipment allowed—sidewalks.*

- a. Only the following types of furniture or other equipment may be located in an outdoor cafe area:
 1. Tables and chairs, provided they are of a quality to sustain weather and wear, and shall be of a material other than molded plastic;
 2. Umbrellas, provided that they are anchored to prevent displacement from a sudden burst of wind;
 3. Waste receptacles;
 4. One menu sign or board attached to the building within the permit area.
- b. Said furniture and other equipment shall be portable and shall not be affixed to the surface of the permit area. Furniture and equipment shall either be removed on a nightly basis or compactly stacked and secured in a manner that furniture cannot leave the sidewalk cafe area.

(7) *Size and spacing.*

- a. The maximum allowable dimension for tables shall be 48 inches in diameter and 48 inches in width or length.
- b. Tables shall be freestanding with detached chairs or seating, unless it is determined that another design meets the intent of these regulations and a specific exception is permitted in writing by the department of ~~community development director~~[engineering and development](#).
- c. Umbrellas shall have a maximum diameter of four feet, a weighted base and be fabric covered. No portion of any umbrellas shall extend beyond the boundaries of the cafe.
- d. Menu boards or signs attached to the building in the permit area shall not exceed six square feet in area.
- e. Tables, chairs, umbrellas, and other permissible equipment shall be located in the outdoor cafe area so that there remains open, at all times, a longitudinal walking space, of a minimum of four feet in width, which distance may be increased if the department of community development director deems it necessary for pedestrian safety.

(8) Entertainment. Outdoor prerecorded music shall only be permitted during the hours of operation of the outdoor dining area and shall be kept at a volume that does not create a nuisance for adjacent properties. There shall be no televisions or loud music in the outdoor dining area, unless otherwise approved under a special event permit.

Section 2. Except as specifically modified and amended by this ordinance, the Municipal Code of the Village of Menomonee Falls shall remain in force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this ordinance are hereby repealed.

Section 3. This ordinance shall take effect and be in full force the same time as the passage and publication of the new Zoning Code.

Section 4. SEVERABILITY. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

Adopted by the Board of Trustees of the Village of Menomonee Falls on the 16th day of January, 2023.

By _____
Jeremy Walz, Village President

Date Posted: 02/24/2023-03/09/2023

Attest _____
Amy Dishinger, Village Clerk