

**VILLAGE OF FREDONIA
APPLICATION FOR SIDEWALK CAFÉ PERMIT**

Date of Application: _____

Name: _____ Title: _____

Establishment Name: _____

Establishment Address: _____

Phone Number: _____

Number of Tables Requested: _____

Number of Chairs Requested: _____

Any Additional Related Items: _____

Dates that you would like to operate or maintain a
Sidewalk Café (*must be between May 1 – October 31*) _____

Applications take up to ten (10) business days for approval. Sidewalk cafes may not be set-up until approval is granted.

Hours of Operation: Monday _____
Tuesday _____
Wednesday _____
Thursday _____
Friday _____
Saturday _____
Sunday _____

Will alcoholic beverages be served: _____ Yes _____ No

Attach evidence of general liability insurance with limits of not less than \$1,000,000 listing the Village of Fredonia as Additional Insured and Certificate holder.

Attach diagram of Sidewalk Café including a 60" pedestrian walk-way which must be maintained. The attached diagram is a typical café style to use as a model. Pedestrian area cannot encroach on the tree grate. Layout is subject to review and approval.

The permit shall be subject to the following conditions:

1. The hours of use shall be from 1/2 hour after sunrise to 1/2 hour before sunset, except for cafes/restaurants which will be permitted to use the sidewalks until 11:00 P.M. All property placed on the sidewalk must be removed prior to sunset or, in the case of the café/restaurant, at 11:00 P.M. or sooner, upon close of business.

2. No alcoholic beverages shall be allowed on any sidewalk outside of any establishment, except under the following conditions:

- a.) Service of alcoholic beverages will be permitted only in connection with a full service restaurant immediately adjoining the sidewalk. Alcoholic beverages can be served at a table only if the sale is in connection with service of a meal. Service of snack food, e.g.: pretzel, popcorn, peanuts, etc. will not qualify as a meal.
- b) The area of the sidewalk to be used shall be confined within a removable fenced-in area and be removed as set forth in Section C1. The fence shall not be less than 3 feet or exceed 3 ½ feet in height. Drilling and bolting into the concrete sidewalk or concrete pavers is **STRICTLY PROHIBITED**. All fences shall be of a self-supporting design so that the supporting columns or posts are on bases which are not secured to the pavement and do not damage the pavement. The Village will invoice the responsible party for ANY damage to Village property, including staining.
- c) The applicant for the permit shall first submit to the Village Code Enforcement Office an application approved by the Code Enforcement Officer, and a plan showing the location and type of fence, location of tables and chairs, and permits or certificates from the State Liquor Authority and any other information that the Code Enforcement Officer deems necessary for compliance with Section and for the protection and safety of the public.

Banners of any sort are NOT PERMITTED to be displayed on the fence of a Sidewalk Café.

Please note: sidewalk cafes are an extension of your existing establishment, therefore **NO SMOKING** will be allowed in the sidewalk café area regardless of how many feet tables are from the entrance.

Attached is a copy of Local Law No. 4, Section 240-12 for your information which must be complied with.

For Office Use Only

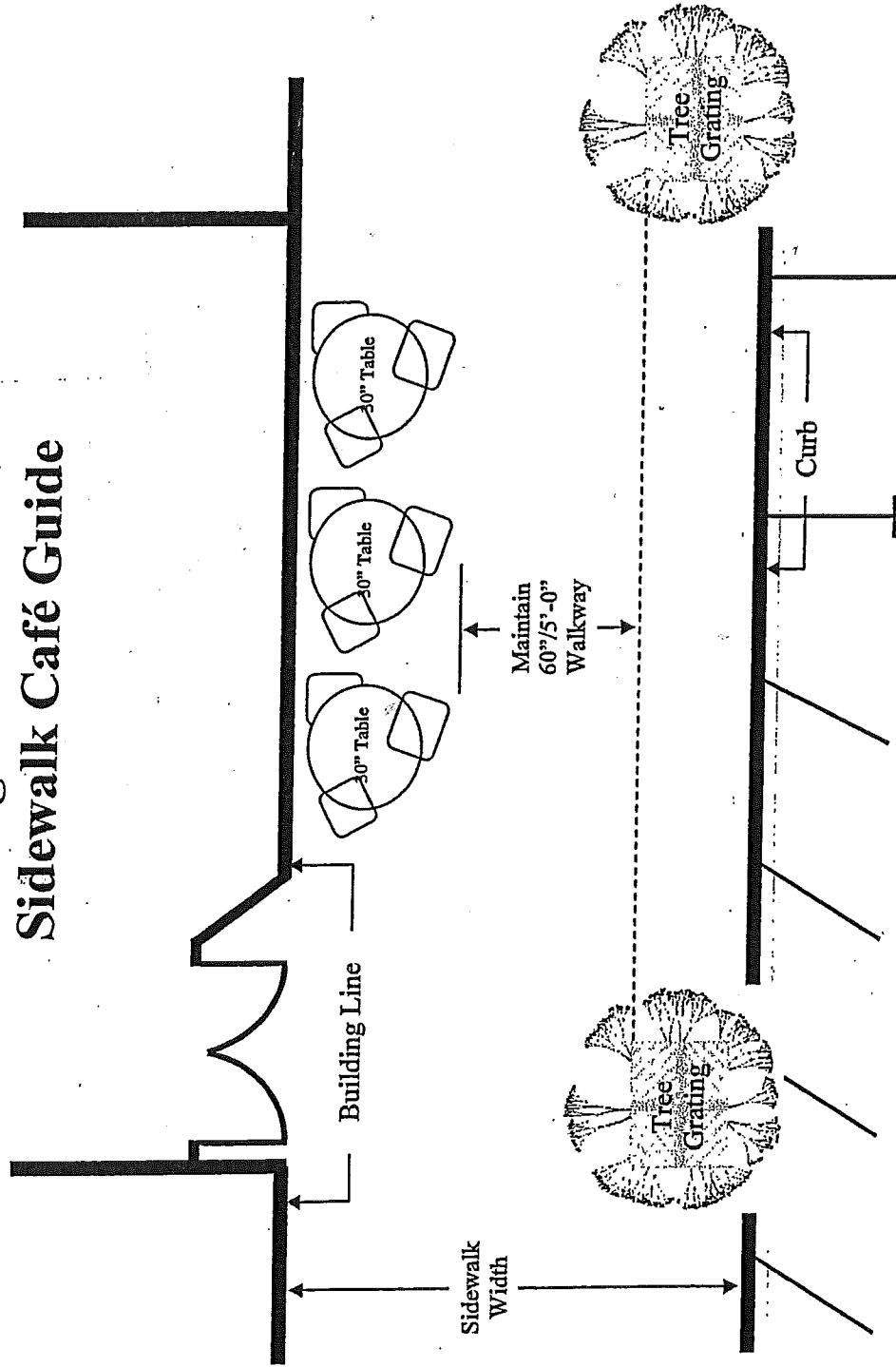
Date Received: _____ Valid Dates: _____

Number of Tables approved _____ Number of chairs approved: _____

Insurance Information: _____

Liquor Establishment: Yes _____ No _____

Village of Fredonia Sidewalk Café Guide



VILLAGE OF FREDONIA
INDEMNIFICATION AGREEMENT
(RELEASE AND HOLD HARMLESS AGREEMENT)

This Release and Hold Harmless Agreement is made this _____ day of _____, 20____ by _____ ("Owner") for the benefit of the Village of Fredonia, New York ("Village").

WHEREAS, the OWNER has applied for a Sidewalk Café Permit for the sidewalk area abutting the property described above pursuant to Village Codes and ordinances and is required thereby to indemnify, defend and hold and save the Village harmless for its use of the public right-of-way (hereinafter collectively the "Property"); and

WHEREAS, the OWNER is authorized to and has obtained any necessary approvals for this agreement.

NOW, THEREFORE, in consideration of the Village allowing the OWNER to use the public right-of-way for its sidewalk café, the OWNER agrees as follows:

1. The above recitals are true and correct and are incorporated herein by reference,
2. The OWNER agrees to indemnify and hold and save the Village harmless from any and all damages, loss or liability occurring by reason of any injury of any person or property which may occur as a result of the Sidewalk Café Permit or the use of the Property by the OWNER or their family, officers, agents, representative, guests, employees, invitees or persons contracting with either or any of them or occasioned by an act or omission, neglect, or wrongdoing of the OWNER or their family, officers, agents, representative, guests, employees, invitees, or persons contacting with either or any of them and OWNER will, at their own costs and expense, defend and protect the Village against any and all such claims or demands which may be claimed to have arisen as a result or in connection with the granting of the Sidewalk Café permit or the use of the property by the OWNER or their family, officers, agents, representative, guests, employees, invitees, or persons contracting with either or any of them or occasioned by an act or omission, neglect, or wrongdoing of the OWNER or their family, officers, agents, employees, invitees, or persons contracting with either or any of them.

Release and Hold Harmless Agreement continued

3. The OWNER does hereby remise, release, satisfy, quit claim and forever discharge the Village from any and all actions, claims and demands that they ever had, now has, or may have against the village as a result of the granting of the Sidewalk Café Permit or because of the use of the Property by the OWNER or their family, officers, agents, representatives, guests, employees, invitees, or persons contracting with either or any of them.
4. The OWNER will maintain liability or other insurance as required by Village codes and ordinances which shall name the Village as an additional insured and for which the Village will be given a current certificate.
5. The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their heirs, legal representative, successors and assigns.

_____, OWNER

_____, OWNER

STATE OF NEW YORK
COUNTY OF CHAUTAUQUA

The foregoing instrument was acknowledged before me this _____ day
of _____ 20_____, by _____ who is personally
known to me or who has produced as identification and who did take an oath.

Notary Public
My Commission Expires:

Sign _____

Print _____

SECTION 1. This Local Law shall be entitled "A Local law enacting a new Section 240-12 of the Code of the Village of Fredonia Relative to Business Use of Village Sidewalks, Including Permits For Use of Alcoholic Beverages."

SECTION 2. Section 240-12 of the Code of the Village of Fredonia enacted by Local law No. 4 of 2008 is hereby repealed and a new Section 240-12 is hereby enacted in its place to read as follows:

§ 240-12. Business use of sidewalks in downtown business district.

- A. No business use of the Village sidewalks in the downtown business district shall be permitted unless the owner of the business first obtains a permit issued by the Village Code Enforcement Officer or his designee. The owner of such business shall comply with all provisions of this Section 240-12. Permits for business use of Village sidewalks shall be issued for use of Village sidewalks only during the period of May 1 to October 31.
- B. The downtown business district shall be defined as the sidewalks adjoining the buildings on either side of Main Street (Rt. 20) between Canadaway Creek and the intersection of White Street and East Main Street.
- C. The permit shall be subject to the following conditions:
 - (1) The hours of use shall be from 1/2 hour after sunrise to 1/2 hour before sunset, except for cafes/restaurants which will be permitted to use the sidewalks until 11:00 p.m. All property placed on the sidewalk must be removed prior to sunset or, in the case of the cafe/restaurant, at 11:00 p.m., or sooner, upon close of business.
 - (2) No alcoholic beverages shall be allowed on any sidewalk outside of any establishment, except under the following conditions:
 - a. Service of alcoholic beverages will be permitted only in connection with a full service restaurant immediately adjoining the sidewalk. Alcoholic beverages can be served at a table only if the sale is in connection with service of a meal. Service of snack food e.g. pretzel, popcorn, peanuts, etc. will not qualify as a meal.
 - b. The area of the sidewalk to be used shall be confined within a removable fenced-in area and be removed as set forth in Section C1. The fence shall not be less than 3 feet or exceed 3½ feet in height.
 - c. The applicant for the permit shall first submit to the Village Code Enforcement Office an application approved by the Code Enforcement Officer, and a plan showing the location and type of fence, location of tables and chairs, and permits or certificates from the State Liquor Authority and any other information that the Code Enforcement Officer deems necessary for compliance with this Section and for the protection and safety of the public.
- D. Owners shall be responsible for keeping the sidewalk area clean and clear for pedestrian use.
- E. There must be a minimum of five feet of unobstructed sidewalk available for pedestrian passage and vehicle loading and unloading.
- F. There shall be no permanent structures on sidewalks.
- G. The business owner must file an application with the Village's Code Enforcement Officer to request permission for use of the sidewalk. The application will require the name of the owner, current address, phone number of the owner, and the proposed use, in detail, and a plan showing the exact location of the proposed use and shall be signed by all owners of the business. The owners of the business shall agree to hold harmless and indemnify the Village from all expenses, claims, damages or other liability arising from the use of the Village sidewalk and this shall be included in the application.
- H. The business owner must provide to the Village of Fredonia a certificate of commercial general liability insurance and liquor legal liability coverage's with occurrence limits of at least \$1,000,000 naming the Village of Fredonia as an additional insured on a primary and non-contributory basis and shall keep such insurance in effect while using Village sidewalks.
- I. The Code Enforcement Officer or Board of Trustees may require any other conditions or terms to be imposed from time to time as he or it determines to be in the interest of public safety.