

Chapter 5.16 Parklet Café permit

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5.16.010 - Purpose.

To further encourage the revitalization of the downtown and other areas of the city, including the development of social and economic activity, the city council finds and determines:

1. That there exists a need for outdoor eating facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and food consumption.
2. That parklet cafés will permit enhanced use of the available public rights-of-way, will complement restaurants operating from fixed premises, and will promote economic activity in the area.
3. That the existence of parklet cafés encourages additional pedestrian traffic, but their presence may impede the free and safe flow of pedestrians. Therefore, a need exists for regulations and standards for the existence and operation of parklet cafés to ensure a safe environment.

4. That the establishment of permit conditions and safety standards for parklet cafés is necessary to protect and promote public health, safety, and welfare.

5.16.020 - Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

"Restaurant" shall mean an establishment holding a State of Wisconsin restaurant license.

"Parklet café" shall mean an expansion of a restaurant creating an outdoor dining facility on part of the public street right-of-way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the restaurant adjacent thereto.

"Parklet" shall mean an expansion of a business creating an outdoor public facility on part of the public street right-of-way that immediately adjoins the premises.

5.16.030 - Permit required.

1. A. Parklet café: A restaurant may apply to neighborhood services for a permit to allow a restaurant to operate a Parklet café. The neighborhood services director or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the City Code of Ordinances, or applicable state or federal law.

B. Parklet: A business may apply to the neighborhood services director for a permit to allow an outdoor sitting area to operate a Parklet. The neighborhood services director or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the City Code of Ordinances, or applicable state or federal law.
2. Before a permit may be issued, the application and site plan shall be reviewed for approval by the city fire department and city building inspector.
3. The permit issued may be transferred to a new owner only for the location and area listed in the permit. If the site plan will change, a new plan must be filed and approved prior to the use under the new site plan. A new certificate of insurance must be filed with the city before the permit transfer.

5.16.040 - Permit application.

A. New Permit Application. Application for a permit to operate a parklet café or parklet shall be submitted to the Neighborhood Services Department and shall include at least the following information:

1. Completed city application form.
2. Copy of a valid restaurant license issued by the State of Wisconsin (if applicable).
3. Copy of a current certificate of commercial liability insurance in the amount of at least \$500,000.00 per occurrence.
4. A layout, drawn to scale, which accurately depicts the dimensions of the existing area and adjacent private property, the proposed location of the parklet café or parklet, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, parking meters, sidewalk benches, trash receptacles, light poles, and any other sidewalk obstructions, either existing or proposed, within the pedestrian area. This layout shall be submitted on eight and one-half-inch by eleven-inch (8½ x 11 inch) paper, suitable for reproduction.
5. Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas, barriers or other objects related to the parklet café or parklet.

B. Annual Insurance Requirement (see 5.16.080).

5.16.050 - Permit fees.

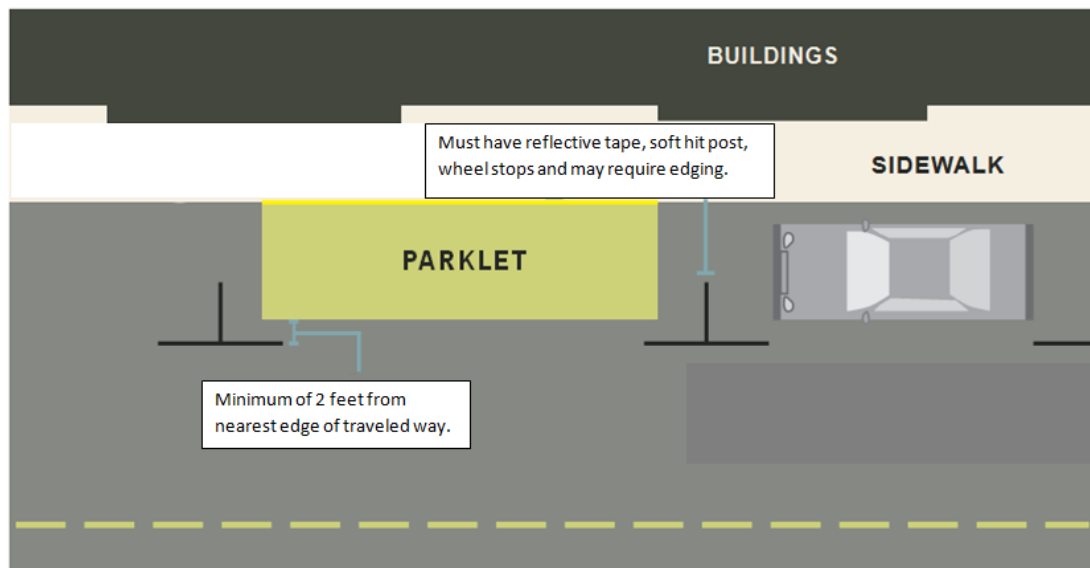
The parklet café or parklet fee shall be determined by the City Council and shall be kept on file in the Neighborhood Services Department.

5.16.060 - Standards.

The following standards, criteria, conditions, and restrictions shall apply to all parklet cafés or parklets, provided, however, that the neighborhood services director or designee may impose additional conditions and restrictions to protect and promote the public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the City of Whitewater Code of Ordinances, and all applicable state and federal laws.

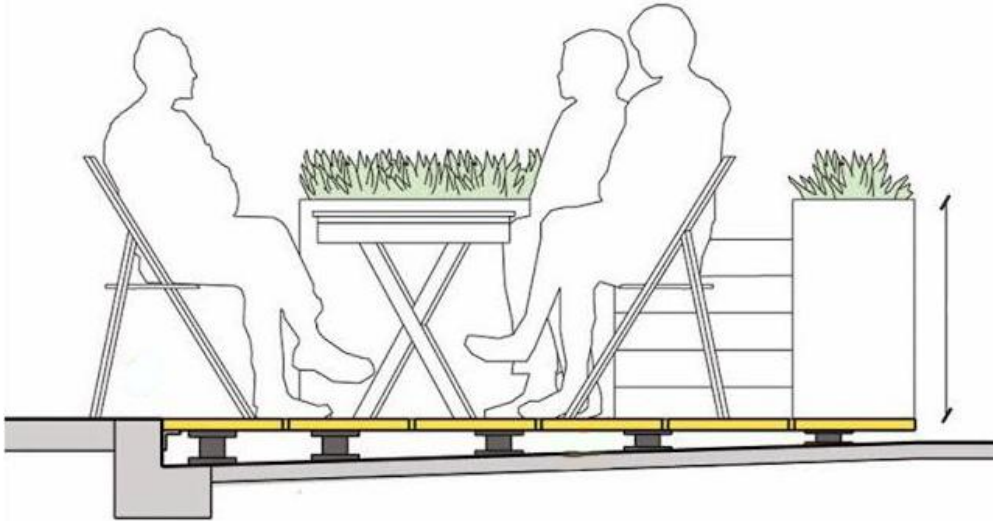
1. Parklet café: is restricted to the public right-of-way immediately adjacent to the licensed full-service restaurant to which the permit is issued.
Parklet: is restricted to the public right-of-way immediately adjacent to the business to which the permit is issued.

2. The parklet café or parklet will require a conditional use permit (CUP) if the parklet café or parklet occupies more than two (2) parking spaces.
3. The parklet café or parklet site shall be located on at least one parking spot and appurtenances thereof shall be a minimum of two (2) feet from the nearest edge of traveled way.



4. Tables, chairs, umbrellas or other fixtures in the parklet café or parklet:
 - a. Shall not be placed within five (5) feet of fire hydrants, alleys, or bike racks. Shall not be placed within five (5) feet of a pedestrian crosswalk.
 - b. Shall not block designated ingress, egress, or fire exits from or to the restaurant, or any other structures.
 - c. Shall not be physically attached, chained or in any manner affixed to any structure, tree, signpost, or light pole.
 - d. may be removed by the City at the owner's expense.
 - e. Shall be maintained in a clean, sanitary and safe manner.
 - f. Shall be commercial-grade furniture.
 - g. Shall not be placed outside or hang over the designated parklet café or parklet area.
5. Shall be permitted from April 1st through October 31st unless the Applicant can demonstrate that the parklet café or parklet will not be a hazard for snow plows or vehicles. Parklets café or parklets that have not been removed after October 31st. Parklet cafes or parklets that have not been removed after October 31st may be removed by the City at the owner's expense.

6. The Parklet café or parklet shall be located in such a manner that a distance of not less than four (4) feet is maintained at all times as a clear and unobstructed pedestrian path. For the purpose of the minimum clear path, parking meters, traffic signs, trees, light poles and all similar obstacles shall be considered obstructions.
7. Parklet café or parklet shall be located in B-2 Central Business Zoning District.
8. The Parklet café or parklet, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day. Maintenance details shall include access panels and how drainage will be provided along the existing gutter.
9. Parklet café or parklet decking must be flush with the curb and may not have more than a 1/2" gap from the curb.
10. The Parklet café or parklet platform shall allow for access underneath the platform and curbside drainage may not be impeded.



11. All rails around the Parklet café or parklet must be capable of withstanding a 200 lb horizontal force.
12. The Parklet café or parklet shall be required to have reflective tape, soft hit posts, wheel stops and, depending on the proposed location, may be required to have edging such as planters, railing or cables.
 - a. Any edge shall be visually permeable.
 - b. If cables are used, vertical spacing between cables may not exceed six (6) inches.

13. Umbrellas and other decorative material shall be made of treated wood, canvas, cloth, or similar material that is manufactured to be fire resistant. No portion of an umbrella shall be less than six (6) feet eight (8) inches above the sidewalk. Umbrellas must be secured.
14. Signs to be used in the parklet café or parklet shall be in accordance with [Chapter 19.54](#) of the City Code of Ordinances. However, the neighborhood services director may allow temporary easel signs.
15. No food preparation, food or beverage storage, refrigeration apparatus, or equipment shall be allowed in the parklet café unless authorized by the neighborhood services director as part of a special event.
16. No amplified entertainment shall be allowed in the parklet café unless authorized by the neighborhood services director as part of a special event.
17. A copy of the site plan, as approved in conjunction with the current parklet café or parklet permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.
18. The city, its officers and employees shall not be responsible for parklet café or parklet fixtures that are relocated or damaged.
19. Patio heaters shall not be permitted on the parklet café or parklet unless authorized by the Fire Chief.
20. The parklet café or parklet shall meet the intersection visibility requirements in accordance with [Chapter 19.51.010](#) of the City Code of Ordinances.
21. Use of the parking space must be authorized by the City.
22. All elements of the above mentioned parklet shall be constructed and/or installed to conform to the applicable provisions, rules, regulations and guidelines of the City of Whitewater Building Code, The Americans with Disabilities Act (ADA), and the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

5.16.070 - Alcohol licensing and service of alcohol beverages.

1. Alcohol is prohibited in parklets. A permittee may sell and serve alcohol beverages in a parklet café only if the permittee complies with all the requirements for obtaining an alcohol beverage license, and the parklet café is listed on the alcohol beverage license application as being a part of the licensed premises. The alcohol in parklets is prohibited.

2. Alcohol may be served at parklet cafés under the following conditions:
 - a. The permittee has a valid and appropriate retail alcohol beverage license for the principal premises.
 - b. The retail alcohol beverage license premises description includes the parklet café in the description of the licensed premises as an extended area.
 - c. The retail alcohol beverage license permits the sale of the type of alcohol beverages to be served in the parklet café.
 - d. Alcohol beverages are sold and served by the licensee or licensee's employees and sold or served only to patrons seated at tables in the parklet café.
 - e. Alcohol beverages are served by the licensee or the licensee's employees in compliance with alcohol beverage laws, ordinances and regulations.
 - f. Alcohol beverages may only be served at the parklet café when food service is available through the licensed establishment.
 - g. The permittee shall be responsible for policing the parklet café area to prevent underage persons from entering or remaining in the parklet café, except when underage persons are allowed to be present on the licensed premises under applicable laws.
 - h. The permittee shall not allow patrons of the parklet café to bring alcohol beverages into the parklet café from another location, nor to carry open containers of alcohol beverages about in the parklet café area, nor to carry open containers of alcohol beverages served in the parklet café outside the parklet café area.
 - i. The area of the restaurant from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the parklet café area.
 - j. At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the parklet café area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the parklet café between 11:00 p.m. and 7:00 a.m.

5.16.080 - Liability and insurance.

By obtaining the parklet café or parklet permit, the permittee agrees to indemnify, defend, save, and hold harmless the city, its officers and employees from any and all claims, liability, lawsuits,

damages, and causes of action which may arise out of the permit or the permittee's activity in the parklet café or parklet. The permittee shall sign an indemnification agreement approved by the city attorney prior to operation of the parklet café or parklet.

1. The permittee shall maintain in full force and effect commercial liability insurance in the amount of at least \$500,000.00 per occurrence for bodily injury and property damage, with the City of Whitewater named as an additional insured, and shall show that the coverage extends to the area used for the parklet café.
2. The permittee shall provide the city with an original certificate of insurance as evidence that the requirements set forth in this section have been met prior to commencing operations. Thereafter a certificate of insurance shall be provided to the city by April 1st of each year.

5.16.090 - Revocation or suspension.

The approval of a parklet café or parklet permit is conditional at all times. A parklet café or parklet permit may be revoked or suspended by the neighborhood services director or designee if a permittee has been found in violation of this chapter on three (3) separate occasions documented by a written warning, or where necessary based on a violation of this ordinance, to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, emergency situations, or to comply with the City Code of Ordinances, or to comply with applicable state or federal law.

5.16.100 - Appeal.

A revocation, suspension, or denial of a permit may be appealed by the permittee to the City Council. If the neighborhood services director's decision is appealed, the City Council shall hold a hearing and either grant, grant with conditions, or deny the permit. The permit holder or applicant shall be notified of the City Council appeal meeting and shall have the right to be heard prior to a decision.

5.16.110 - Penalty.

The penalty for violation of this section shall be a forfeiture of not less than \$50.00 or more than \$200.00 per day for each violation, together with the costs of prosecution.