



Outdoor Restaurant Seating License Summary of Program & Requirements

I. Introduction

The Village of Winfield has adopted Ordinance No. *2011-02-03*, which is designed to encourage outdoor restaurant seating by providing a more efficient and convenient process for obtaining approval for outdoor seating.

Previously, a restaurant operator who wished to provide outdoor seating was required to apply for and obtain a “special use permit” under the terms of the Village’s Zoning Ordinance. Those wishing to use sidewalks for outdoor seating were required to obtain a Sidewalk Café Permit through a different process.

The Village’s new procedure will now permit all restaurant operators to obtain a “license” for outdoor seating, which will be issued after an administrative review of a license application. This new procedure will normally be concluded within fifteen days of the submission of a completed application. It will provide a more streamlined and efficient method of examining and permitting outdoor seating, and will do so at a reduced cost to the restaurant operator.

If, after reviewing these materials, you have any questions or need any assistance, please contact the Community Development Department of the Village of Winfield (630-933-7113).

II. Application Requirements for Outdoor Restaurant Seating Licenses

The Village will review applications for outdoor restaurant seating licenses by examining each application to make sure the outdoor seating area complies with the requirements of the Village’s ordinance, and will work with the applicant to make any needed alterations. Review is normally completed within fifteen days of the submission of a completed application. In order to facilitate this process, it is important that the application be complete and contain all the required information.

Outdoor restaurant seating licenses are available only to restaurants that hold a valid Village Business License. The applicant must submit to the Community Development Department the following materials:

- A. A completed license application form;
- B. The applicable license fee;
- C. Five copies of a plat or drawing indicating, to scale, the amount of surface the applicant is seeking permission to use and the location of furniture, equipment and any other article accompanying public space;
- D. How the premises will be supervised and maintained;

- E. Description or photo of furniture to be used;
- F. Number of patrons to be accommodated;
- G. Description of the food and drink to be offered for sale.

III. Additional Application Requirements for Licenses Permitting the Use of the Public Sidewalk

If the outdoor seating area is proposed to be located on a Village sidewalk or other public right-of-way the application must also include the following:

- A. A written plan detailing the measures which the applicant expects to take to ensure compliance with the conditions established hereby for an Outdoor Restaurant Seating license.
- B. The Licensee shall submit a plan showing the manner in which the furnishings and equipment will be stored during the hours that the Outdoor Restaurant Seating portion of the restaurant is closed. The plan shall be subject to the Village's approval. All furnishings and equipment left outside shall be moved as close to the building wall as may be practical during the hours when not in use.
- C. The Licensee shall be responsible for the maintenance and upkeep of the public property used for the Outdoor Restaurant Seating and the replacement of damaged public property, including brick pavers. No furniture or furnishings may be attached by any means to the Public Area or any other public property. Maintenance shall include daily cleaning of the area by an employee of the Licensee.
- D. The holder of any permit shall obtain and keep in full effect at all times commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$500,000 each occurrence; and in the event liquor is being served, such limit shall be not less than \$1,000,000. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location. Said insurance shall cover liability arising from premises, operations, independent contractors, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Village shall be included as an additional insured under the CGL, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the Village. This coverage shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the Village. Any insurance or self-insurance maintained by the Village shall be excess of the permit holder's insurance and shall not contribute with it.

The permit holder shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits

shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

If the Village has not been included as an additional insured under Commercial General and Umbrella Liability Insurance required in this Contract, the permit holder waives all rights against the Village and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the permit operations. The Worker's Compensation policy shall be endorsed with a waiver of subrogation in favor of the Village for all activities of the permit holder, its employees, agents and subcontractors.

As part of the permit application, the permit holder shall furnish the Village with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

All certificates shall provide for 30 days' written notice to the Village prior to the cancellation or material change of any insurance referred to therein. Written notice to the Village shall be by certified mail, return receipt requested.

Acceptability of Insurers - For insurance companies which obtain a rating from A. M. Best, that rating should be no less than A VII using the most recent edition of the A. M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Village has the right to reject insurance written by an insurer it deems unacceptable.

- E. To the fullest extent permitted by law, the permit holder shall indemnify and hold harmless the Village and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees (attorneys' and paralegal fees and court costs), arising out of or resulting from the permit operations, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting from and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the permit holder, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. The permit holder shall similarly protect, indemnify and hold and save harmless the Village, its officers, officials, employees, volunteers and agents and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of the permit holder's breach of any of its obligations under, or permit holder's default of, any provision of the permit or any ordinance, statute, law or regulation.

IV. Operating Requirements for the Outdoor Restaurant Seating Areas

1. The establishment of Outdoor Restaurant Seating shall not be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity.
2. No Outdoor Restaurant Seating areas shall be located in any minimum yard setback or transitional yard as required by the Winfield Zoning Ordinance.
3. No Outdoor Restaurant Seating area shall be allowed to be placed in an existing parking lot so that it reduces the number of parking spaces below the parking standards as stated in 10-9-7: SCHEDULE OF OFF-STREET PARKING REQUIREMENTS.
 - a. All Outdoor Restaurant Seating areas located in parking lots shall be enclosed by a barrier between patrons and vehicles.
4. All tables, chairs and other equipment shall be constructed and set up in such a manner as to be easily removed during winter months or any other time required by the village.
5. The proprietor shall be required to provide additional outdoor trash receptacles for the Outdoor Restaurant Seating as required by the Village's building official. Trash receptacles shall be constructed of an impervious material and be of sturdy construction equipped with a tight fitting cover.
6. Sufficient area lighting for Outdoor Restaurant Seating shall be provided to alleviate any hazardous condition.
7. No soiled food service equipment, utensils or tableware may be kept in the Outdoor Restaurant Seating area.
8. All clean food service equipment, utensils or tableware must be covered prior to use by patrons.
9. The Outdoor Restaurant Seating shall be accessible to the disabled, and the Licensee shall at all times comply with all applicable federal, state and village laws, ordinances and regulations concerning accessibility and non-discrimination in the providing of service.
10. In no event shall the operation of the Outdoor Restaurant Seating interfere with the passage of pedestrian or vehicular traffic, or reduce the open portion of the sidewalk to less than thirty-six inches, clear of all obstructions, measured from edge of the sidewalk closest to the curb, lamppost or parking meter.
11. In no event shall the operation of, or placement of equipment or furnishings for, the Outdoor Restaurant Seating obstruct access to any taxi stand, bus stop, crosswalk, mailbox, curb cut, parking space or any other public property. The furnishings or

- equipment shall not obstruct access to any fire hydrant, fire escape or fire door, or obstruct the clear view of any traffic signal, regulatory sign or street sign. Whether the placement of equipment or furnishings obstructs access to any of the foregoing shall be the sole determination of the Village Manager or his designee.
12. Outdoor furnishing materials and finishes shall be durable, smooth and easily cleanable and shall be kept in sound condition and good repair.
 13. Seeing-eye and other disability assistance dogs shall be allowed in an Outdoor Restaurant Seating area provided that they are under the control of their owner. All other animals are allowed in the Outdoor Restaurant Seating area at the discretion of the restaurant management.
 14. All outdoor furnishings shall be designed to withstand a wind pressure of not less than thirty (30) pounds per square foot so that the furnishings will not be moved.
 15. The Outdoor Restaurant Seating area shall have direct access to the restaurant's main public area, including restrooms.
 16. If the restaurant does not have a liquor license and the Outdoor Restaurant Seating area is not located in a parking lot then no barrier shall be required.
 17. Any potential operator of an Outdoor Restaurant Seating area must be able to display conformance with 9-1-2-5: International Fire Code, 2006 Edition, as may be amended from time to time, in regard to occupancy limit; circulation area; exit and signage for same, lighting, safe escape route, presence of fire extinguisher.
 18. The Licensee shall submit a detailed drawing showing the placement of every item of furniture or equipment to be used as a part of the Outdoor Restaurant Seating. The proposed locations shall be subject to the review and approval of the Village. If a material change is made to an approved layout then an amended application shall be required.

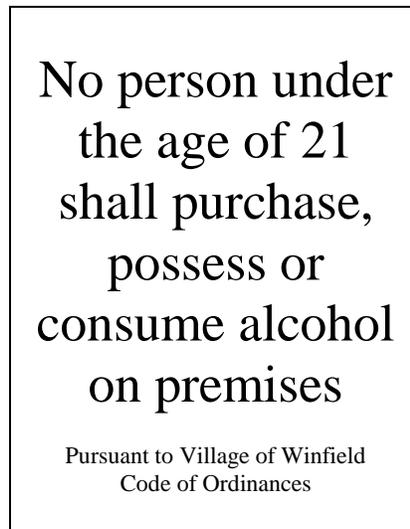
V. Additional Standards for Establishments with a Liquor License

1. In order to segregate and distinguish Outdoor food and beverage consumption from the general public, the Outdoor Restaurant Seating area must be enclosed on all sides by a barrier not less than three (3) feet in height as measured from the grade adjacent to the seating area. If the outdoor service area is below grade of the adjacent public area, the applicant shall address to the satisfaction of the Village Manager or designee a means of differentiating the area and other performance standards. The enclosure shall provide not less than fifty percent (50%) open area in design to allow viewing within. No food or beverages shall be passed through this barrier. The barrier shall be sturdy, and must not be moved beyond the area on the plan approved by the Village. The barrier shall not obstruct any fire exit, fire escape or other required means of ingress and egress.

2. The sale and consumption of alcoholic beverages in the Outdoor Restaurant Seating shall be restricted by the liquor license governing the restaurant.
3. Any Outdoor Restaurant Seating may only be open between the hours consistent with those associated with the type of license the applicant possesses. The Liquor Commissioner may modify the hours out of concern for potential disruption of residential or other noise sensitive uses.
4. Signage governing no liquor sales to persons under the age of 21 years shall be displayed in a prominent place in the Outdoor Restaurant Seating as depicted below.

18”

24”



VI. License Fee and Term

Outdoor restaurant seating licenses are issued annually and expire December 31 of each year. A new application shall be submitted each year. The license fee is \$25.

IDEMNIFICATION

WHEREAS, the undersigned desires to maintain an outdoor restaurant seating area on a portion of the public sidewalk in the Village of Winfield;

WHEREAS, the Village of Winfield is willing to permit the undersigned to maintain such an area, provided that the Village will not thereby incur the risk of any liabilities to the undersigned, or to any third party or employee of the undersigned, by virtue of the presence or actions of the undersigned;

NOW, THEREFORE, the undersigned agrees to indemnify, defend and hold harmless the Village of Winfield, its officers, employees and agents against any and all loss, liability, damage, claims, costs and expenses, including attorney's fees which it may hereafter suffer, incur, be put to or pay out as a result of the undersigned's operation of the restaurant outdoor seating area and the undersigned shall at his or her own expense, appear defend and pay all fees of attorneys and all costs and other expenses arising there from or incurred in connection therewith; and, if any judgments shall be rendered against the Village in any such action, the undersigned shall satisfy and discharge the same excluding only such claims, demands or losses, which result from the sole negligence of the Village of Winfield or its officers, agents or employees.

Signed at _____ Illinois, this _____ day of _____, 20_____

WITNESS:

Signature

Name (Please Print)

Title

Address

City, State, Zip

OUTDOOR RESTAURANT SEATING LICENSE APPLICATION FORM

I. Applicant Information:

Restaurant Name: _____

Liquor License No. (if applicable): _____

Owner: _____

Address: _____

Phone: _____

II. Application Request (check one):

Outdoor Eating Area on Public Sidewalk _____

Outdoor Eating Area on Private Property _____

III. Application Checklist

Date Submitted

Date Approved

Application Fee _____

Site Plan _____

Copy Liquor License _____

Proof of Insurance _____

Indemnification Form _____

IV. Statement of Understanding:

I hereby acknowledge the Village of Winfield outdoor cafe requirements and agree to abide by such rules and regulations.

(Applicant)

Date

Return to: Community Development Department
Village of Winfield
27W465 Jewell Road, Winfield, IL 60190