



**DEPARTMENT OF
PLANNING, HOUSING & COMMUNITY DEVELOPMENT**

OUTDOOR CAFÉ PERMIT APPLICATION

To the Applicant: This is an application for a seasonal outdoor café permit and is not the permit itself. Seasonal permits for cafés will not be issued until site plan approval is given by the Office of the Corporation Counsel; the Planning, Housing & Community Development Department; the Commission on Architecture and Urban Design (CAUD); the Police Department; and by the Fire Department. Staff from the Planning Department will guide you through the various steps of the approval process. It is recommended that you do not purchase any furniture or equipment until such time as your site plan is approved and a permit is received. Attached is a short information form to be completed by the applicant, and a description of the public space outdoor café program. **For more information, please contact the Planning, Housing, and Community Development Department at (607) 772-7028.**

1. Applicant or Business Owner

Name _____

Address _____

Telephone (Day) _____

Email (optional) _____

2. Property Location

Address _____

Tax Map Number _____

3. Description of Café

Width of Building _____ Number of Tables _____

Width of Café _____ Number of Chairs _____

Depth of Café _____ Hours of Operation _____

Total Square Feet _____ Nature of Activities _____

4. Site Plan

(Part 1: Area Requirements)

Public Open Space

In public open spaces such as the Parlor City Commons or the Promenade, the maximum width of the space leased to a private restaurant/tavern shall be no larger than the width of the building wall of which it is immediately adjacent to, or 45 feet, whichever is less. A clear five (5) foot walkway must be provided either through or in front of the café to provide pedestrian passage. The dimension of the café shall be delineated by an extension of parallel building lines, perpendicular to the building face which the café shall be adjoining so as not to impose upon neighboring properties. The maximum depth of the space will be either fifteen (15) feet from building face or contingent to the following: If after review by the City it is found that the 15 foot criteria hampers fire access or pedestrian safety, then the maximum depth of the space shall be limited to a dimension of less than fifteen (15) feet as determined by public safety officials, City Planning Staff, and the Commission on Architecture and Urban Design (CAUD).

Public Sidewalks

An outdoor café may be established on a public sidewalk with a depth greater than eight (8) feet, five (5) feet of which must be reserved for pedestrian passage. The maximum width of the space leased to a private restaurant/tavern shall be no larger than the width of the building wall of which it is immediately adjacent to, or 45 feet, whichever is less.

(Part 2: Plan Requirements)

Attach to this application a map or drawing, drawn to scale, showing the premises as it is presently constituted with the following elements of the café clearly shown:

- Location and dimensions of the café
- Means of delineating the café borders and egress if alcoholic beverages are served
- Types of furniture and its arrangement, materials used and colors
- Lighting (if any)
- Plant materials, existing or proposed
- Signage: any menu boards, kiosks, or signs associated with the café shall be considered a sign under the City Sign Ordinance and will be subject to its requirements. Application for signage shall be part of the site plan approval.

It is important that information be clear, detailed, and submitted with this application, as insufficient information may delay the review process. It is recommended that you include photographs of the proposed café space and photographs/manufacturer information for the proposed furniture (information printed from a website is acceptable). This will help speed up the review process.

NOTE: The City reserves the right to approve, modify or reject any site plan application.

5. Insurance Information

Company Name _____

Address _____

Telephone Number _____

Contact Agent _____

6. Submitted By

Applicant _____ Date _____

Owner _____ Date _____

NOTE: When developing your site plan, please refer to the attached "Outdoor Café Rules and Regulations" listing complete guidelines for outdoor café design and regulation.

**Return completed application to:
City of Binghamton
Planning, Housing & Community Development Office
4th Floor, 38 Hawley Street
Binghamton, NY 13901**

Office Use Only

Date Application Submitted _____ **Complete** **Incomplete**

Police Department _____ **Date** _____

Fire Department _____ **Date** _____

Corp. Counsel _____ **Date** _____

Planning Department _____ **Date** _____

CAUD _____ **Date** _____

APPLICATION: Approved **Denied**

Permit Fee \$ _____

Filed with the City Clerk (Date) _____

City of Binghamton – Outdoor Café Guidelines

Section One: General Criteria

A. Type of Permit

An outdoor café permit is a “seasonal permit/lease”. Said permit, as authorized herein, shall grant the holder thereof a license to use the public property described in each such “season permit/lease” for café-purpose consistent with these rules and regulations.

B. Café Location

The City shall issue seasonal permits/leases only to those ground floor restaurants and/or taverns which are contiguous to and have a formal ingress (door or passageway) opening up on those public pedestrian areas and/or public sidewalks with a width greater than eight (8) feet. Restaurant/tavern owners must maintain a minimum of five (5) feet for pedestrian passage at all times.

Area Requirements –

1. **Public Open Space** – In public open spaces such as the Parlor City Commons or the Promenade, the maximum width of the space leased to a private restaurant/tavern shall be no larger than the width of the building wall of which it is immediately adjacent to, or 45 feet, whichever is less. A clear five (5) foot walkway must be provided through, in front of, or around the café to provide pedestrian passage. The dimension of the café shall be delineated by an extension of parallel building lines, perpendicular to the building face which the café will be adjoining so as not to impose on neighboring properties, except where such a line would interfere with a formal ingress of said neighboring property. In such a case, the boundary of the café shall be adjusted as necessary to maintain the required five (5) feet of walkway. The maximum depth of the space will be either fifteen (15) feet from the building face or contingent to the following:

If after review by the City it is found that the fifteen (15) foot criteria hampers fire access or pedestrian safety, then the maximum depth of the space shall be limited to a dimension less than fifteen (15) feet as determined by public safety officials, City Planning staff, and the Commission on Architecture and Urban Design (CAUD).

Public Sidewalks – An outdoor café may be established on a public sidewalk with a depth greater than eight (8) feet, five (5) feet of which must be reserved for pedestrian passage. The maximum

width of the space leased to a private restaurant/tavern shall be no larger than the width of the building wall of which it is immediately adjacent to, or 45 feet, whichever is less.

C. Café Cost

The cost of a seasonal café permit will be based on the total square footage of the outdoor space leased from the City. The rate or rent per square foot will be set by City Council. For the 1998 season, the rate shall be fifty (50) cents per square foot. This rate shall continue until such time as it is amended by City Council.

D. Insurance Required

Before the final issuance of any permit, the applicant shall give a public liability policy or protective liability policy to indemnify and hold harmless the City from any and all claims or causes of action arising out of the activity in questions. Said liability policy shall name the City as party insured, and the policy shall be in the amount of one million dollars (\$1,000,000). The City shall not issue a permit without the production of proof of insurance. Such proof must be in a form acceptable to the Corporation Counsel.

Section Two – Design Criteria

A. Site Plan

No outdoor café permit will be issued until site plan approval is given by the Department of Planning, Housing, and Community Development, the Corporation Counsel, the Commission on Architecture and Urban Design (CAUD), and the Police and Fire Departments. Applications for the site plan approval will be made available through the Office of the City Clerk. The site plan will address such issues as, but not limited to:

1. Means of delineating the café's borders and egress for safety evacuation.
2. Types of furniture and its arrangement, materials used and color.
3. Lighting (if any).
4. Plant materials (if any).
5. Character of surroundings and harmony of the café layout to these surroundings.
6. Signage – Any menu or identifying kiosk, board, or sign associated with the café shall be considered a sign under the present City Sign Ordinance and its requirements. Application for the sign permit shall be part of the sign approval process.
7. Issues as defined or required by the City for the New York State Alcoholic Beverage Control Board (ABC Board).
8. With the exception of table umbrellas or existing awnings, cafes shall be open to the sky.

9. The café and its property shall not be set up in such a way as to cause damage to City property (i.e. – stained pavement, damaged trees, etc).

Note: The City reserves the right to approve, approve with modifications, or reject any site plan application.

Section Three: Operational Criteria

- A. The café operator will be required to enter into a seasonal lease with the City. Should problems arise over the matter in which the café is operated, the City reserves the right to immediately revoke said lease.
- B. The New York State Alcoholic Beverage Control Board (ABC Board) will be the sole authority responsible for granting an outdoor liquor license after receiving seasonal permit approval from the City.
- C. The hours of café operation shall be determined by the specific lease negotiated by and between the City and the operator subject to any ABC Board approval in conformance with these rules and regulations.
- D. No cooking or preparation of food will be allowed outdoors.
- E. The permit for leasing the space will be valid from date of permit/lease approval until October 1.
- F. The restaurant/tavern will be responsible for cleaning and maintenance of their leased area.
- G. In addition to ABC Board regulations, the outdoor café must conform to all Broome County Health Department Regulations. Furthermore, it is the responsibility of the restaurant/tavern owner to obtain any required Health Department approvals.
- H. Each café operator must provide the City with a minimum of one million dollars (\$1,000,000) of liability insurance and release, indemnify and hold harmless the City from any liability incurred or caused by the café operations.
- I. Café owners are responsible for ensuring that the café and its patrons adhere to City noise and public conduct ordinances.
- J. The City will not be responsible for the loss or theft of any furniture or other café property.

Section Four: Permit/Lease Procedure

A. Application for Permit/Lease

Any person eligible to procure a permit as herein provided shall file with the City Clerk a verified application form. The application shall contain the following information:

1. Name and address of restaurant/tavern/café;
2. Name and address of applicant;
3. Place of planned activities;
4. Hours of operation;
5. Nature of activities planned;
6. Proof of compliance with any other applicable laws, rules, regulations, or ordinances of the City.
7. A site plan, drawn to scale, including placement of any furniture, lights, signs, and any necessary barriers.

B. Permit Processing

The City Clerk shall send copy of said application to the Department of Planning, Housing, and Community Development for review and investigation. The Department of Planning, Housing, and Community Development shall ascertain whether or not said application has complied with the provisions of this chapter and obtained all needed approvals from various City departments. The Department of Planning, Housing, and Community Development shall report in writing its findings and recommendations, if any, to the City Clerk in a timely manner as necessary approvals are obtained.

C. Terms and Conditions

All permits/leases granted pursuant to this section shall be subject to the following terms and conditions:

1. The lessee will supervise the café and provide sufficient personnel for the proper supervision and conduct of said café.
2. The lessee will cooperate with the Police Bureau and other public safety personnel of the City of Binghamton regarding the conduct of patrons of said café.
3. The lessee will provide sufficient personnel and materials to clean the site of café of all rubbish or debris so that the site in questions will be clean and in proper condition to the satisfaction of the Department of Public Works at the end of the day.
4. Should the lessee fail to clean the site to the satisfaction of the Department of Public Works, the lessee will be held liable for City

incurred cleanup costs as determined by the Department of Public Works and the lease shall be subject to immediate cancellation.

5. The lessee shall reimburse the City for any and all damages or injury to any City property that may arise directly or indirectly from the café and also to save harmless and indemnify the City from any and all claims, actions, damages, or liability arising directly or indirectly from the café of every name and nature, which may arise or be incurred by the City as a consequence of the giving of such permission, or as the result of the cleaning of rubbish or debris resulting from said café.
6. Should the lessee fail to comply with any of the provisions of the lease regarding the conduct of all permitted café business, the lessee shall be ineligible to receive future permits under the rules except by the expressed consent of the Binghamton City Council.
7. All leases entered into under this program shall contain the following clauses:
 - a. The parties of the lease agree that the public space described above and being leased by the lessor to the lessee shall be under the exclusive control and operation of the City between the hours of 11:00 o'clock p.m. (EDT) and 7:00 o'clock a.m. (EDT). Said property shall be under the exclusive control and operation of the lessee during the remaining hours of the day.
 - b. The City Clerk shall issue permits pursuant to this section on standard permit form to be provided by the City.
 - c. Upon receipt of the report from the Department of Planning, Housing, and Community Development as provided for above and upon receipt of the proof of insurance as required, the City Clerk shall, provided that the application form is complete, issue to the applicant a permit. Except as herein provided, no permit shall be refused except for a specific reason, including the protection of the public safety, health, moral, and general welfare, conflict with a previously scheduled permitted event, or failure to comply with these rules. Upon issuance of the permit the Corporation Counsel shall prepare a lease for the use of the public space.
 - d. A record book of permits/leases issued and fees collected compiled by the City Clerk on a weekly basis pursuant to Section 16 of the Supplemental Charter. All permit fees

collected herein shall be transmitted weekly to the City Treasurer.

- e. Any permit/lease granted under this section may be revoked by the City if the operation of the business constitutes a threat to the public health, safety and welfare or for any violation of these rules, any ordinance of law. When permit/lease is revoked, no refund of any portion of the permit fees shall be made.
- f. A permit/lease issued under these rules shall not be assignable.

D. Lease Payments

Lease payment for property leased under shall be set at the seasonal rate of fifty (50) cents per square foot, payable to the City at the time of permit approval. In the event of operator default or termination for cause by the City, no portion of said payment is refundable.

Revised May 29, 2009