



## **AGENDA FOR PUBLIC WORKS AND UTILITIES COMMISSION - SPECIAL MEETING**

A Public Works and Utilities Commission - Special Meeting meeting will be held on **Thursday, June 05, 2025 at 5:00 PM**  
in the **Council Chambers at City Hall, 819 Superior Avenue, Tomah, WI.**

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Join Zoom Meeting

<https://us06web.zoom.us/j/2708608080?pwd=ZTZ0cmhLVFEFb1dzVDNwdi91UHFYQT09>

Meeting ID: 270 860 8080

Passcode: 206751

One tap mobile

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### **Call to Order - Roll Call**

### **Discussion Items**

1. [Approval: Ordinance Authorizing Sidewalk Cafe](#)

### **Adjourn**

**NOTICE:** It is possible that a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice. Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Becki Weyer, City Clerk, at 819 Superior Avenue, Tomah, WI 54660.

## STAFF COMMITTEE PREPARATION REPORT

### **Agenda Item:** Sidewalk Café Ordinance

#### **Summary and Background Information:**

The owner of The Brick Sip Haus, Mr. Blaine Hackett, approached the Director of Economic Development and Zoning with recommendations to improve the economy of downtown. One of those recommendations was to allow downtown businesses to operate “side walk cafes” that have patrons dining at tables and chairs on the sidewalk area in front of their property. This recommendation was brought before the Long Range Planning Committee, and they voted 7-0 to direct the preparation of an ordinance that would enable the implementation of this recommendation.

Director Morales, in coordination with Mr. Rohr of Vandewalle & Associates, is presenting for review and recommendation a draft of this ordinance. The foundation of this ordinance was taken from the City of Platteville, Wisconsin and amended to make it easier for Tomah businesses to obtain the permit. It also closely mirrors the practices in place in the City of La Crosse and City of Wauwatosa.

**Recommendation From:** Director of Economic Development and Zoning

#### **Minutes Attached:**

Yes ☐ No ☒

**Budget Account:** N/A.

**Fiscal Impact:** Will generate additional revenue for the City through the implementation of permit fee system.

**Staff Responsible for implementation:** Chairperson of the Senior Executive Team

**Economic Impact:** Is highly likely to increase the appeal of downtown dining and shopping.

**Zoning/Rezoning Issues:** N/A.

#### **Supports Organizational Goals:**

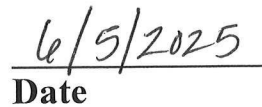
Yes ☒ No ☐

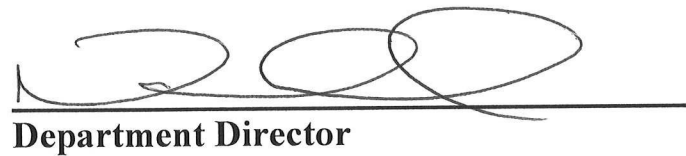
**Questions from SET:** None.

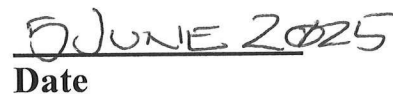
**Grants Pursued/Opportunity Pursued:** N/A.

**Recommendation:** A motion to approve this item should read, “Motion to approve the draft ordinance amendment to Chapter 38 of the municipal code. Specifically, to authorize the implementation of a sidewalk café permit systems for downtown businesses, with the Director of Economic Development and Zoning responsible for creating the application for said permit.”

  
SET

  
Date

  
Department Director

  
Date

**Committee:** Public Works and Utilities  
**Meeting Date(s):** 5 June 2025

## **Proposed Chapter 38 Municipal Ordinance Amendments Sidewalk Cafes**

All text below in black exists within Chapter 38. Any text in redline is proposed to be changed or added with the Municipal Ordinance Amendment.

### **Chapter 38 – Street, Sidewalks, and Other Public Places**

#### **Article II. Sidewalks**

##### **Section 38-34. Restricted use of Sidewalks.**

- (a) No person shall operate a skateboard, scooter, roller skate, roller blades or bicycle on the sidewalks of Superior Ave. from Council St. to Washington St.
- (b) No person shall operate a Sidewalk Café on sidewalks outside of Superior Ave. from Clifton Street to Washington Street. See Section 38-36.

##### **Section 38-36. – Sidewalk Cafes.**

- (a) Definition. Sidewalk cafes shall mean an outdoor dining facility located upon a sidewalk within the public right-of-way adjacent to a restaurant licensed under Wis. Stats. 254.61(1)(a) and has all other required approvals from the City of Tomah. A sidewalk café shall include any group of tables, chairs, benches, barriers, partitions, trash containers, and other such approved features typically associated with outdoor dining.
- (b) Permit Required. It shall be unlawful for any person to sell, or offer to sell, any food or beverage at a sidewalk café located upon any sidewalk within the public right-of-way, unless such person shall have first applied for and obtained a sidewalk café permit.
- (c) Application Procedure.
  - (1) Application for a sidewalk café permit shall be filed with the Economic Development and Zoning Director. The application shall contain such information as the Economic Development and Zoning Director may require and shall include at a minimum the following:
    - a. A completed application form.
    - b. A scale drawing of the site, showing the location of all trees, poles, benches, grates, and other amenities or obstructions, and location of the proposed furniture, fences, and other equipment.
    - c. Photographs, drawings, or manufacturers brochures fully describing the appearance, materials and dimensions of all proposed tables, chairs, barriers or other objects related to the sidewalk café.
    - d. A copy of a valid restaurant license issued by the State of Wisconsin under 254.64(1)(a) for the premises where the sidewalk café will be located.
    - e. A copy of all local businesses approvals and licenses from the City of Tomah for the premises where the sidewalk café will be located.

- f. The permit fee.
  - g. A letter from the adjoining property owner(s) and business tenant(s) when Section 33-36(d)(1) applies.
- (2) The Economic Development and Zoning Director shall review the application for compliance with the provisions of this chapter and other applicable City Ordinances. If the application is complete, the permit request shall be submitted to the Planning Commission for approval, approval with conditions/restrictions, or denial. An application for a sidewalk café that will include the sale of alcohol shall also be approved by the Common Council.
- (3) Following approval of the sidewalk café permit application, and as a condition of granting the permit, the applicant shall furnish a certificate of insurance, on a form acceptable to the City, evidencing the existence of comprehensive general liability insurance with the City of Tomah being named as an additional insured and liability limits of not less than \$500,000 per claim and \$1,000,000 annual aggregate. The certificate shall provide thirty (30) days written notice to the City prior to cancellation, nonrenewal, or material change to the policy.
- (4) All permits hereunder are annual permits and shall be effective from March 1 until the end of February. To renew an existing sidewalk café permit, the permit-holder who meets all applicable requirements needs only to submit to the Economic Development and Zoning Director a completed renewal application, along with the appropriate annual permit fee and certificate of insurance. If the permit-holder proposes changes to the site, the application shall be processed in the same manner as an initial sidewalk café permit application.
- (d) General restrictions. Any sidewalk café permitted hereunder shall be subject to the following regulations:
  - (1) Sidewalk cafés are restricted to the public right-of-way immediately adjacent to and extending perpendicular to the curb from the façade of the real property owned or leased by the permit holder. The Plan Commission may allow the boundary to be extended beyond the frontage of the permit holders business to include the frontage of contiguous property, however, a written statement signed by the owner(s) and tenant(s) of the adjacent business shall be provided at the time of application.
  - (2) All sidewalk cafés shall remain within the boundaries of the sidewalk café site as set forth on the approved application. No application will be approved where the location of the sidewalk café negatively impacts another business, as determined by the Plan Commission.
  - (3) No portion of a sidewalk café shall be permitted within five (5) feet of a fire hydrant, curb-cut or marked crosswalk, or any handicapped parking space.

- (4) All activities at the sidewalk café shall be conducted so as to maintain a minimum width of four (4) feet of unobstructed public pedestrian walkway between the sidewalk café and the edge of the sidewalk adjacent to the curb and other obstructions. For the purpose of the minimum clear walkway, traffic signs, light poles, hydrants and all similar obstacles shall be considered obstructions.
- (5) No furniture or activities in a sidewalk café shall block designated egress, ingress, or fire exits from or to any structures, including the business establishment that operates the sidewalk café.
- (6) No person holding a sidewalk café permit may use any public property, such as light poles or other utility poles, flower planters, trees, or other amenities as a point of attachment for any ropes or other devices as part of the sidewalk café.
- (7) The outdoor furniture should be constructed of durable materials, such as wrought iron, rather than lightweight plastic.
- (8) No sidewalk café shall be open for business between the hours of 10:00 p.m. and 7:00 a.m. All materials and equipment forming part of the sidewalk café shall be removed from the site when the business is not in operation.
- (9) No food preparation, food or beverage storage, refrigeration apparatus, or other equipment shall be allowed in the sidewalk café unless specifically authorized as part of the approval.
- (10) No amplified sound shall be allowed in the sidewalk café unless specifically authorized as part of the permit.
- (11) All sidewalk cafés shall be maintained in a clean and hazard-free condition at all times. Debris shall be removed as required during the day and again at the close of each business day. All debris and refuse generated by patrons of the sidewalk café shall be disposed of in receptacles provided by the holder of the sidewalk café permit and shall not be disposed of in publicly maintained trash receptacles.
- (12) The use of a portion of the public right-of-way as a sidewalk café shall not be an exclusive use. All public improvements, including, but not limited to, light poles, traffic signs, manholes, or any public initiated maintenance procedures, shall take precedence over said use of the public right-of-way at all times. The Economic Development and Zoning Director may temporarily order the removal of the sidewalk café for special events, including but not limited to parades, sponsored runs or walks, or for public health and safety reasons.
- (e) Alcoholic beverage restrictions. Any sidewalk café that includes the sale of alcoholic beverages shall be subject to the following additional restrictions and limitations:

- (1) A permittee may sell and serve alcoholic beverages in a sidewalk café only if the permittee complies with all the requirements for obtaining an alcohol beverage license (Article 4).
- (2) Alcohol may be served at sidewalk cafés under the following conditions:
  - i. The permittee has a valid and appropriate alcohol beverage license for the principal premises (Article 4);
  - ii. Alcohol beverages are sold and served by the licensee or licensee's employees only to patrons seated at tables in the sidewalk café;
  - iii. Alcohol beverages are served by the licensee or the licensee's employees in compliance with alcohol beverage laws, ordinances and regulations;
  - iv. The permittee shall not allow patrons of the sidewalk café to bring alcohol beverages into the sidewalk café from another location, nor to carry open containers of alcohol beverages served in the sidewalk café outside the sidewalk café area; and
  - v. The bar from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the sidewalk café area.
- (f) Procedure for revocation, suspension, or nonrenewal.
  - (1) In addition to any other penalty provided under this chapter, a sidewalk café permit issued hereunder may be revoked, suspended, or not renewed for a specific period of time after notice and hearing as provided herein for violation of any provisions of this chapter, violations of conditions of approval, or any other City ordinance. If the revocation, suspension or non-renewal of a cafe permit includes premises described in an alcohol beverage license, the procedures for revocation, suspension or non-renewal of an alcohol beverage license set forth in Chapter 4 shall also be initiated.
  - (2) Such hearing shall be held by the Common Council after review and recommendation by the Plan Commission. The permit-holder shall be notified in writing of the charges at least ten (10) calendar days prior to the hearing. At the hearing, the Economic Development and Zoning Director shall present evidence of the alleged violation. The permit-holder shall have the opportunity to question witnesses, may call witnesses on their own behalf, and may be represented by counsel.
  - (3) After due consideration, the Common Council may suspend the permit for a period not to exceed six (6) months, or revoke or non-renew the permit for a period not to exceed one (1) year. The violator shall be notified in writing of the findings and determination of the Common Council.
  - (4) The decision of the Common Council shall be a final determination and shall be subject only to judicial review as may be provided by law. Any person aggrieved by the Common Council decision hereunder may seek judicial review thereof within thirty (30) days of the date of the final decision.

- (g) Penalty for violation. The penalty for violation of any provision of this section shall be as provided in Section 1-14 of the Municipal Code.

## **Article VI. – Obstructions and Encroachments**

### **Section 38-147. Exceptions**

The prohibitions in this section do not apply to the following:

- (1) Public utility encroachments authorized by state law or city ordinance.
- (2) Awnings, signs, overhead sidewalk heaters and canopies, provided they are installed and maintained in accordance with this chapter.
- (3) Temporary encroachments or obstructions authorized by permit, including sidewalk cafes in Section 38-36.
- (4) Excavations and openings in streets permitted by this chapter.