

Village of Fowlerville

213 S. Grand Avenue
Fowlerville, Michigan 48836
Phone (517) 223-3771 Fax (517) 223-7435
www.fowlerville.org



Permit # _____

Outdoor Dining Right-of-Way License/Permit Agreement

_____, Permittee, of _____,
(Applicant/Permittee name) (Applicant) (Permittee Address)

has requested use of a portion of the Village of Fowlerville's public Right-of-Way for an approved outdoor dining/cafe use and has expressly agreed to the following conditions: and the Village hereby grants a revocable license to use the designated portion of the Right-of-Way, subject to strict compliance with each of the following conditions.

1. The permittee shall comply with all applicable ordinance requirements of the Village and all laws and regulations of the county and state including those relating to the outdoor dining business operation, and expressly including the requirements of Sec. 641 of the Village Zoning Ordinance (copy attached) and any conditions placed upon such use by the Village Planning Commission in its approval.
2. The Permittee shall not interfere with any public service facility; such as a telephone, mailbox or bench, located in the Right-of-Way, and the operation of the sidewalk outdoor dining area shall not interfere with the set up or the operation of any Village approved special event.
3. The outdoor dining area and the public property on which they are located shall be kept neat and clean at all times and free from any substance that may cause damage to the sidewalk or cause pedestrian injury. Sidewalk outdoor dining areas must remain clear of litter, food scraps, and soiled dishes at all times. The permittee shall be responsible for providing appropriate containers for disposing of garbage or waste and employees shall not use Village trash containers for disposing of dining area waste.
4. The tables, chairs, and other appurtenances of the outdoor dining area shall not be permanently anchored to the sidewalk in anyway, and they shall be placed in a way that they do not hinder safe pedestrian use of the sidewalks and do not block ingress or egress from any building.
5. The Permittee shall defend, indemnify, save, and hold harmless the Village and all of its officers, agents, or employees from any liability for damages resulting from any and all occupancy and operations under this license, and shall maintain insurance in amounts established in Sec. 641 of the Village Zoning Ordinance.
6. The Village reserves the right to require removal of all or any portion of the sidewalk cafe/outdoor dining placed in the Right-of-Way by this permit as needed for highway or public utility maintenance or construction purposes without replacement or reimbursement of any costs incurred by the Permittee or any other party.
7. This permit is not assignable and not transferrable.
8. Upon written notice of suspension or revocation, which shall be delivered to the Permittee personally or mailed to the address as shown on this Agreement, the Village may immediately suspend or revoke this license. Upon revocation of a license, Permittee shall, at the Permittee's own expense, immediately cease operations, and surrender this permit, or alter or relocate in a manner approved by the Village. Upon revocation, all furnishings and fixtures shall be removed from the Village Right-of-Way within 24 hours, or they may be removed by the Village. The Permittee expressly waives any right to claim damages or compensation in the event this permit is suspended, revoked or altered.

I, _____ have read and agree to comply with the above conditions for use of the public right-of-way permit.

Applicant/Permittee Signature: _____ Date: _____

Planning Commission Approval: _____ DPW Approval: _____

Insurance Certificate Filed: _____

Sec. 641. - Accessory outdoor dining areas.

Accessory outdoor dining areas are permitted by right when accessory to a permitted or special land use subject to the following:

1. Outdoor dining may be permitted as an accessory to another permitted dining use, and shall at no time be used for retail display or sales.
2. Outdoor dining requests shall require site plan review by the planning commission in compliance with [chapter 24](#), site plan review and impact assessment. Instead of a formal site plan, the zoning administrator may allow submittal of a sketch plan if it is drawn to scale and shows all relevant items of the site needed to review the request. Additional information, or a formal site plan may be requested by either the zoning administrator or planning commission. Once initial approval has been granted by the planning commission, it shall be valid for one year and may be renewed annually by the zoning administrator, provided that it continues to comply with the original planning commission approval. The zoning administrator may defer decision to the planning commission, if they feel additional review is needed due to existing or reoccurring violations, or the existence of other unforeseen conditions.
3. Outdoor dining is permitted between April 15 and October 31. All furniture and fixtures must be removed immediately after October 31.
4. Outdoor dining areas shall not be the primary seating of the restaurant.
5. Outdoor dining areas shall be located in a manner to maintain a minimum pathway width of five feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic.
6. Chairs and tables shall be of quality durable material such as metal or wood.
7. Waste receptacles shall be provided in instances where wait staff does not clear all tables. In cases where outdoor dining areas are provided for general use by more than one business, such as for shopping plazas and multi-tenant businesses, it shall be the responsibility of the property owner to ensure the area is maintained in a clean and orderly fashion.
8. Outdoor dining areas shall be required to be enclosed in instances where there is wait staff or alcohol service. Enclosures shall consist of metal railing, wood railing, brick walls or other suitable material approved by the planning commission.
9. Outdoor dining that extends into areas located within the public right-of-way shall require approval by department of public works. Such requests may be permitted in the BC, business center zoning district only, and shall adhere to the following:
 - a) Commercial general liability insurance must be procured and maintained on an "occurrence basis" with limits of liability not less than \$1,000,000.00 per occurrence combined single limit, personal injury, bodily injury and property damage. This coverage shall include an endorsement naming the city, including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members, as an additional insured. This coverage must be primary and any other insurance maintained by the additional insureds shall be considered to be excess and noncontributing with this insurance, and shall include an endorsement providing for a 30-day advance written notice of cancellation or non-renewal to be sent to the zoning administrator.
 - b) A license agreement in a form deemed acceptable to the village attorney's office shall be required.
 - c) An elevated, ADA compliant platform may be erected on a street adjacent to an eating establishment to create an outdoor dining area if the planning commission determines there is sufficient space available for this purpose given parking and traffic conditions. Such platform shall be constructed according to the following:
 1. Platforms shall be enclosed by a metal railing, wood railing or other suitable material approved by the planning commission. Railing height must be at least 42 inches in height.
 2. All platforms must be removed no later than November 7th and may not be stored outdoors during the winter months.
 3. Platform edges closest to the travel portion of the roadway shall include reflective surfaces or other elements to draw attention to motorists.