

From: Peter Neuberger <Peter.Neuberger@Appleton.org>

Sent: Monday, June 17, 2024 3:28 PM

To: Denise Fenton <District6@Appleton.org>

Subject: Municipal Services Committee Held Item - Occupancy Permit Lil Taco Tables & Chairs

Good Afternoon Alder Fenton,

This email is provided to you and to the other Municipal Services Committee members in response to discussion at the 06-10-2024 MSC meeting concerning the street occupancy permit application for tables and chairs at Lil Taco, 106 South State Street, for the remainder of the 2024 calendar year.

During deliberations, committee members offered the following line of comments and questions needing further investigation by staff:

- The use of picnic tables as proposed does not seem conducive to the owner removing the tables from the right-of-way after normal business hours. Might the after-hours presence of such tables at this location contribute to behaviors of concern to APD? The committee would like to hear from APD on this.
- Is it appropriate to consider placing limitations on the time of day/night during which tables and chair may be operated within the right-of-way? Is it appropriate to consider the portability of tables and chairs for purposes of their ability to be removed from the right-of-way during certain hours?

DPW offers the following information for the members' consideration per the above topics.

Applicable Code Language

The permit application falls under the Sidewalk Cafés section of the municipal code, Secs 9-256 to 9-265, attached for reference.

Noteworthy sections regarding the above topics:

- 9-257 Requires that sidewalk cafés obtain a Street Occupancy Permit from DPW.
- 9-261 and 9-262 *Restrictions on Use of Permit and Conduct of Business Generally*. DPW did not identify any time-of-day-related restrictions specified by code, other than those associated with serving of alcohol per 9-262(b).
- 9-262(a)(6) states the following requirement, "A minimum width of twelve (12) feet between the back of curb and the building face must exist; with a minimum of eight (8) feet available for pedestrian traffic". DPW has confirmed the necessary clearance is available.
- 9-262(c) states, "The Chief of Police or designee may close a sidewalk café at any time the health, safety, welfare, or good order of the City is threatened."

Appleton Police Department

DPW consulted with Police Chief [Olson] on the above topics. Chief [Olson] indicated based on practical experience that if behaviors of concern were to occur within the proposed sidewalk café, such behaviors would likely occur during operational hours of the establishment, not after close. Therefore, a theoretical requirement that tables and chairs be removed from the right-of-way after business hours is unlikely to significantly impact behaviors of concern, positively or negatively. Chief [Olson] further added that if the permit is granted, the Police Department would monitor this situation closely and would bring any concerns to the committee's attention.

Sidewalk Café History at this Location

Under previous management and under the name Mr. Taco, this location first received an occupancy permit for tables and chairs in 2016. On March 1, 2017, Common Council approved a street occupancy permit application for tables and chairs at this location. After 2017, Mr. Taco renewed their permit with DPW annually through 2021. After 2021, it appears the site began operating under new management using the name Lil Taco. DPW received no occupancy permit applications for tables and chairs after 2021, until receiving the permit application under current consideration, although it appears operation of the sidewalk café area continued uninterrupted since 2021.

DPW Administration of Other Sidewalk Café Permits

DPW currently administers numerous sidewalk café occupancy permits. DPW's research did not identify instances of a permit for which DPW had placed a time-of-day restriction on the placement of tables and chairs, although some permittees appear to voluntarily remove tables and chairs at certain times and days.

Thank you and please let me know if I can be of further assistance regarding this application.

Pete



Peter J. Neuberger

Deputy Director of Public Works / City Engineer
City of Appleton, Department of Public Works
100 N. Appleton St. Fl 5, Appleton, WI 54911-4702
O: 920-832-6485 | peter.neuberger@appleton.org
[Facebook](#) | Appleton.org