



## Sidewalk Encroachment Permit Application

For displays, benches, planters, sandwich board signs, sidewalk cafes, etc. in the Valley Junction Historic Business District (VJHB)

**Return application to: City of West Des Moines, City Clerk, 4200 Mills Civic Parkway, PO Box 65320, West Des Moines, IA 50265-0320.**

Due to minimal setbacks of buildings from the public right-of-way and in an effort to encourage a lively, viable, pedestrian oriented street culture in the Valley Junction Historic Business District (VJHB), the use of the public sidewalks may be allowed in accordance with the WDM City Code, Section 7-1-1.

**Both the building owners and business owners are required to fill out separate applications if both wish to place items out on the City sidewalk. A separate application is required to be submitted for EVERY building and/or business you own. Please read each option below and mark which one applies to you.**

I am applying as a Building Owner       I am applying as a Business Owner\*  
(\*requires Building Owner info & written consent)

I am applying as both a Building Owner and a Business Owner at the same location

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_ West Des Moines, IA 50265

Building Owner Name: \_\_\_\_\_

Building Owner's Address: \_\_\_\_\_

Building Owner's Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Business Owner Name: \_\_\_\_\_

Business Owner's Address: \_\_\_\_\_

Business Owner's Email: \_\_\_\_\_ Phone: \_\_\_\_\_

**There are different types of applications. Please read completely and mark the one that applies to you.**

I intend to place on or above the City sidewalk - merchandise, movable signs, tables and chairs and other items for café seating, and or merchandise décor (like wind chimes or flags for sale) that hangs over the sidewalk. All items will meet Sidewalk Encroachment Permit standards. **\*\*This requires a full new application each calendar year\*\*** This application is for calendar year 20\_\_\_\_.

I intend to place on or above the City sidewalk – permanent items that stay outside year round like benches, planters, awnings, table and chairs not associated with a sidewalk café, the American Flag (not being sold as merchandise). All items will meet Sidewalk Encroachment Permit standards. **\*\*This is a one-time application, but requires updated proof of insurance each year\*\***

## Sidewalk Encroachment Permit – Standards

A full listing of all regulations related to the use of a public sidewalk can be found in the West Des Moines City Code, Section 7-1-1: Use of Public Ways Restricted. To assist in the submittal of this application these are some of the requirements that must be met for consideration:

Design Standards. For private furnishings (benches, planters, tables and chairs not associated with a sidewalk café, etc.), merchandise, temporary signs and any flags:

- Sidewalk must be a minimum of eight (8) feet in width.
- Limited to the first three (3) feet adjacent to building (except for signs as noted below) and only in front of the place of business.
- Must maintain a minimum five (5) foot unobstructed public sidewalk for pedestrian use of the sidewalk and to address American Disabilities Act (ADA) requirements.
- One (1) temporary movable sign, not to exceed two and one-half feet (2½') in width and three and one-half feet (3½') in height, may be displayed in front the applicable establishment within the three (3) foot area immediately adjacent to the building, or on the sidewalk near the public street, but must maintain a two (2) foot setback from the curb (for vehicle overhang) and may not obstruct the five (5) foot unobstructed public sidewalk for pedestrian movement.
- Anything projecting over the sidewalk, including but not limited to, awnings, projecting signs, under awning signs, flags, decorations, etc. must be a minimum of eight (8) feet above the sidewalk grade.
- Sidewalk Cafes elements may consist of tables, chairs, fencing, planters and plants, and umbrellas and awnings and similar fixtures if approved by the city as part of the sidewalk encroachment permit process.
- shall be allowed to extend more than the first three (3) feet adjacent to the building but must still maintain the five (5) foot unobstructed public sidewalk, and the following:
  - Must be adjacent to and contiguous with one side of the building it serves, and in which a restaurant is located and operating, and may not extend beyond the property lines of the parcel containing the building when extended perpendicularly to the adjacent street.
  - Must be enclosed by a barrier at least three feet (3') in height, consisting of: fencing or other rigid structure, or ropes of a design or type approved by the city.
  - No sidewalk café shall be located within ten feet (10') of any public alley.
  - A minimum two feet (2') of unobstructed clearance must be maintained on each side of any doorway leading from the building onto the public sidewalk.

### Operational Standards:

- All items need to be removed from the public sidewalk within 30 minutes of the close of business or secured by means of chain and lock so that they cannot be used to cause damage to persons or property during hours the establishment is closed.
- Sidewalk Cafes shall follow the operational requirements:
  - Sidewalk cafes may be installed no earlier than April 1, and all components thereof shall be removed from the public passageway on or before November 15 of each year.
  - The hours of operation for sidewalk cafes shall be from no earlier than 7:00 a.m. to no later than 10:30 p.m., Sunday through Thursday, and no earlier than 7:00 a.m. to no later than midnight on Friday and Saturdays.
  - The sidewalk cafe area shall be restored to its normal condition as a pedestrian walkway at all other times, including during certain times of the year that the sidewalk cafe is not open for business.
  - Sidewalk cafes that serve alcoholic beverages must be in compliance with all other local, county and state requirements for outdoor alcohol sales.
  - A sidewalk cafe serving alcoholic beverages shall have an employee who shall monitor the sidewalk cafe area at all times during the hours alcoholic beverages are served or are available for service and/or

consumption to prevent underage consumption and any alcoholic beverages from leaving the approved service area.

- Food and beverages, other than alcoholic beverages, must be available for service to and consumption by patrons in a sidewalk cafe during all hours of operation.
- The sidewalk cafe area shall be served by waiters or restaurant staff at all times during all hours of operation.
- Sidewalk cafes shall not play or allow the playing of music, whether live or recorded, that involves the use of sound amplification equipment, and no speakers, microphones, or other sound amplification equipment shall be used in conjunction with televisions, radios or other audio or video devices in a sidewalk cafe area at any time during the hours of operation, unless a sound permit has been issued for the use.
- The sidewalk cafe shall be equipped with an inside or outside water source to clean the sidewalk cafe area.
- The sidewalk cafe area shall be cleaned on a daily basis, including cleaning of tables, chairs, trash receptacles, and the surface of the sidewalk within the sidewalk cafe area. All garbage, trash, litter and other debris extending for ten feet (10') on any side of the café area shall be picked up and collected by the employees of the café whenever the trash receptacles appear to be full and at closing time. No trash receptacles or sidewalk cafe elements shall be hosed down in the sidewalk cafe area or in any part of the public sidewalk at any time. The sidewalk within or adjacent to the sidewalk cafe shall not be hosed down during cold weather, when ice could form thereon.
- Sidewalk cafes may be installed no earlier than April 1, and all components thereof shall be removed from the public passageway on or before November 15 of each year.

## Sidewalk Encroachment Permit Application – REQUIRED ITEMS CHECKLIST

**Your application will not be accepted and a permit will not be issued if all items have not been completed!**

(Please initial next to each item to verify you have included it)

\_\_\_\_\_ Application fully completed, signed, dated and notarized by both the building owner and business owner.

\_\_\_\_\_ Twenty-five dollar (\$25) Permit Application Fee

\_\_\_\_\_ Proof of Insurance in accordance with Section 7-1-1 shall be required annually for all sidewalk encroachments. Commercial general liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for bodily injury and property damage, with the City to be named as an additional insured on the policy, with an endorsement to be issued as part of the insurance policy, evidencing compliance with this requirement. Annual updated policies or any changes in policies to be submitted to: City of West Des Moines, City Clerk, 4200 Mills Civic Parkway, PO Box 65320, West Des Moines, IA 50265-0320.

\_\_\_\_\_ Hold Harmless and Indemnification Agreement on a form furnished by the City, under which the proprietor and building owner agrees to indemnify and hold the City harmless from any liability for damages arising out of the placement of items in the public right-of-way. Must be signed, dated and notarized by business owner and building owner.

\_\_\_\_\_ Detailed diagram (see attached sample) of the encroachment area in front of the business identifying the following:

- The dimensions, including the length and width, of the public sidewalk that is adjacent to said establishment and the area to be used,
- The five foot (5') area of unobstructed public sidewalk which is to be reserved for pedestrian use,
- The location and dimensions to any public street furnishings, light posts, trees and tree wells, and any other sidewalk obstructions or elements that could affect the unobstructed movement of pedestrians in conjunction with the proposed encroachments,
- The location where the tables, chairs, benches, planters, fencing, roping or barrier will be placed during the hours of operation, and the size and number of other sidewalk furniture associated with the use;
- The location where the tables, chairs and/or benches shall be stored during the hours when such establishment is closed;
- In the event the establishment elects not to move said items inside the establishment each night, the means by which such tables, chairs, benches, etc., shall be secured;
- The distance between the boundaries of the use area and all adjacent street curbs, buildings, property lines, street intersections, alleys, and fixtures in the public sidewalk;
- An illustration of compliance with the provision of a minimum two foot (2') clearance between any such tables, chairs and/or benches and each side of any doorway leading from the establishment onto the public sidewalk; and
- Such other information and documentation as the city may require in order to demonstrate compliance with the requirements of this subsection and show that the proposed sidewalk encroachment shall not unreasonably interfere with:
  - adequate pedestrian flow;
  - access to building entrances;
  - pedestrian and traffic safety; and
  - the aesthetic quality of the surrounding area.

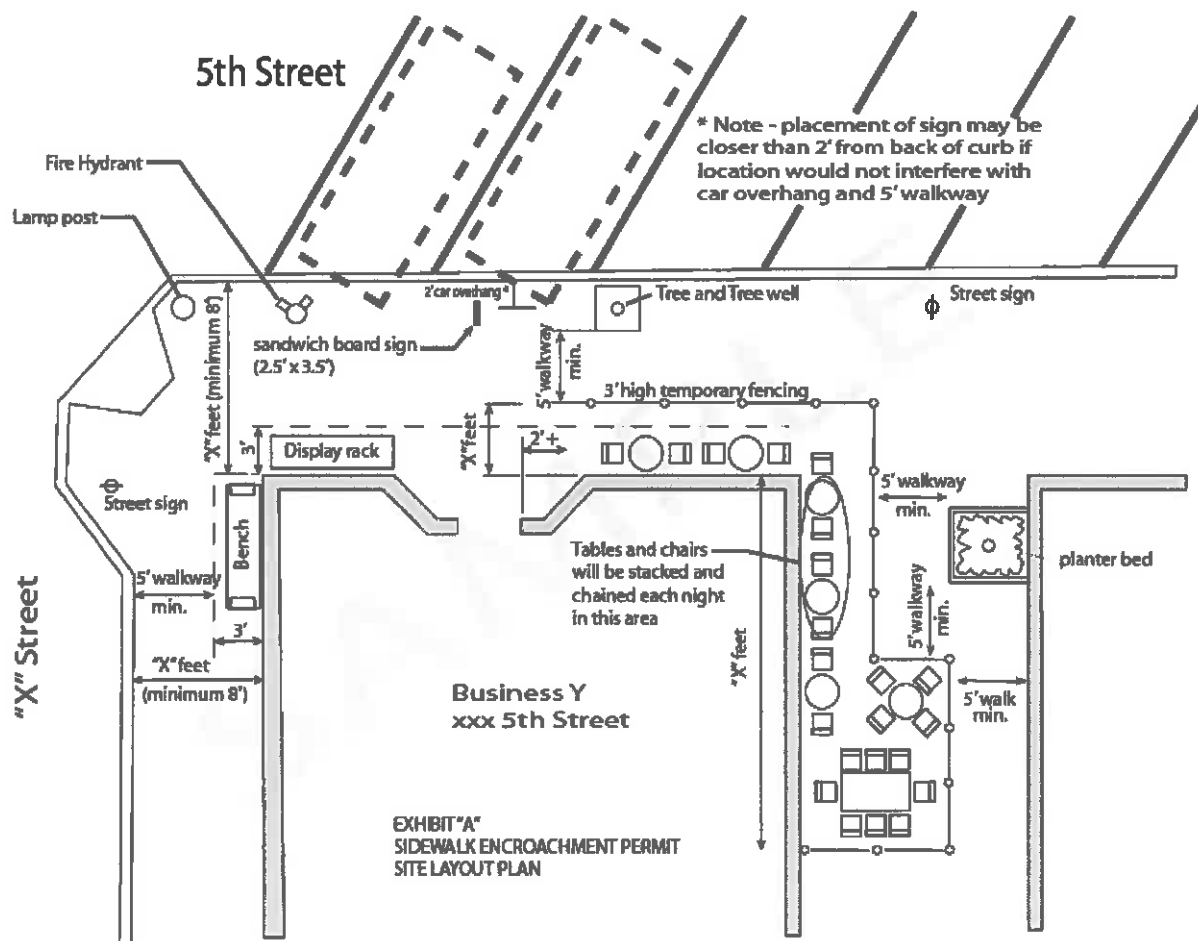
\_\_\_\_\_ If required, a cash deposit in the sum acceptable to the city to cover any damage to the public sidewalk included within the use area. If the fencing or other items are permanently affixed to public property, the property owner will furnish the city with a cost estimate during the application process that provides a detailed summary of

the repairs and costs to repair the items in public property. The cash deposit shall be refunded by the city clerk upon expiration, non-renewal or other termination of the sidewalk encroachment permit, if there is no damage to the public sidewalk after removal of the use from the public right-of-way.

\_\_\_\_\_ If applicable, proof that the applicant holds a valid liquor control license or wine or beer permit for the restaurant which is adjacent to the proposed sidewalk cafe and proof that the applicant has applied to the Iowa Alcoholic Beverages Division for approval to extend the "premises" covered by such license or permit to include the entire sidewalk cafe area, if the applicant is applying for authority to serve alcoholic beverages in the sidewalk cafe area. No sidewalk encroachment permit for a café to serve alcohol shall be issued by the city clerk until such liquor control license or wine or beer permit has actually been issued as provided in this subsection.

\_\_\_\_\_ If required, other information and documentation as the city may require in order to demonstrate that the proprietor complies with the requirements of this subsection.

Below is an example of a sketch of the layout of the sidewalk encroachment proposal that you will need to prepare and submit with the application. It is important that you include the dimensioning of the space and the unencumbered walkways to verify compliance with the code regulations. If you need to attach additional documentation to clarify how you will comply with the code requirements, feel free to do so.



SKETCH PLAN EXAMPLE



**HOLD HARMLESS AND INDEMNIFICATION AGREEMENT FOR ENCROACHMENT UPON  
SIDEWALK OWNED BY THE CITY OF WEST DES MOINES, IOWA**

The undersigned hereby acknowledges that that he/she/it is an applicant or owner for a sidewalk encroachment permit from the City of West Des Moines ("City").

The undersigned agrees to indemnify, hold harmless, and defend the City, its officials, employees, agents, contractors, and assigns, from any and all claims, demands, causes of action, liability, loss, damage, or injury, both to person and property, arising out of, related to, or connected with any activity on the City's property pursuant to a sidewalk encroachment permit for \_\_\_\_\_ (business name) at \_\_\_\_\_ (address of business). This indemnification applies to and includes, but is not limited to, the payment of all penalties, fines, judgments, awards, decrees, attorney's fees, expert witness fees, investigation fees, settlements, related costs or expenses, interest, and any reimbursements incurred by or assessed to the City, its officials, employees, agents, contractors and assigns, related to this sidewalk encroachment. The undersigned shall provide the City with prompt notice of any such claim, demand, or action so that the City may, at its option, defend or settle such claim, demand, or action.

The undersigned understands and agrees that he/she/it shall have no right of coverage under any and all existing or future City insurance policies. The undersigned shall provide insurance coverage for and on behalf of himself/herself/itself that will be sufficient to protect the undersigned and the City, including their respective officials, employees, agents, contractors, or assigns, in connection with this sidewalk encroachment. The undersigned also acknowledges that the City has no responsibility for any damage caused to the sidewalk encroachment by any source. The undersigned agrees that he/she/it has placed the encroachment upon the City sidewalk at the undersigned's own volition and the undersigned assumes all known or unknown risks associated with the placement of the encroachment upon the sidewalk.

This agreement is effective upon execution and shall be of indefinite duration unless otherwise terminated by the City at the City's sole discretion, or upon the voluntary removal of the sidewalk encroachment. The sidewalk encroachment permit shall automatically terminate upon the removal of the encroachment. The terms of this agreement shall be binding upon the undersigned's heirs, successors, and assigns. The person signing this document also represents that he/she possesses the requisite authority to enter into this agreement on behalf of the applicant or owner.

**Hold Harmless and Indemnification Agreement – Signature Page**

If the business owner is the applicant and they are not the owner of the building in which the business is located, the City also requires the building owner to sign the Hold Harmless and Indemnification Agreement.

**BUILDING OWNER**

\_\_\_\_\_  
Printed Name Signature

STATE OF IOWA )  
                              ) ss  
COUNTY OF POLK )

This record was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary

**BUSINESS OWNER**

\_\_\_\_\_  
Printed Name Signature

STATE OF IOWA )  
                              ) ss  
COUNTY OF POLK )

This record was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
Notary