6.04.13  Sales, Café Seating or Display of Merchandise within Public Right-of-Way

A. **Right-of-Way Sales Prohibited Except by Permit.** No person shall display, sell or offer to sell on any street, sidewalk, alley or other public place within the City any goods, wares, foodstuffs or anything of value or service of any kind by putting up a table, booth or stopping a vehicle or person on foot or in any other manner obstructing the right-of-way and attempting to publicly sell or offer for sale any such articles, unless such person shall have first applied for and obtained a permit as set forth in Chapter 2, Division 4, Section 43 of this Title of this Code of Ordinances.

B. **Outdoor Dining Areas on Public Property (Sidewalk Cafes).**
   1. **Purpose.** To encourage revitalization and growth of downtown and other areas of the City of Onalaska, including the development of social and economic activities and to encourage enhanced use of available public rights-of-way to complement restaurants while still encouraging the free and safe flow of pedestrians. To establish safety standards for sidewalk cafés is necessary to protect and promote public health, safety and welfare.
   2. **Sidewalk Café Defined.** Sidewalk Café shall mean an expansion of a restaurant or coffee shop creating an outdoor dining facility on part of the public property that immediately adjoins the licensed premises for the purpose of consuming food or non-alcoholic beverages to the patrons of the business.
   3. **Permit Required.** An establishment may apply for a permit from the City’s Clerk’s office to allow for a sidewalk café. The Clerk’s office may approve or deny a permit where necessary to maintain the public health, safety or welfare, to prevent a nuisance from developing or continuing or due to violation of this section, the City Code of Ordinances or applicable State or Federal Law. A Sidewalk Café permit shall be issued where the application is filled out in its entirety, the fee as set forth in the City Fee Schedule is paid and the application meets the standards set forth in Section 4. below.
   4. **Permit Standards.**
      a. No portion of any sidewalk café may encroach on the sidewalk adjacent to any other property other than the property that is licensed in this Chapter.
      b. The Applicant shall maintain a four (4) foot wide unencumbered, open and accessible portion of the sidewalk for pedestrian traffic safety and accessibility at all times.
      c. Sidewalk cafes may operate; serve food or non-alcoholic beverages, until 11:00 p.m. Sunday through Thursday and until midnight Friday and Saturday, meaning all patrons must vacate the sidewalk café by those times.
      d. The Applicant shall provide for removal of garbage and is responsible for the cleanliness of the sidewalk café area.
      e. The use of the portion of public property as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, manholes or any public initiated maintenance procedures shall take precedence over said use at all times. The City Administrator, Chief of Police, Zoning Administrator, Public Works Director or their designees may temporarily order the termination of sidewalk cafes for the following reasons, but not limited to, special events, including but not limited to, construction, parades, sponsored runs or walks, or for any reason to maintain the health, safety, and welfare of the public.
      f. Semi-permanent markings will delineate the corners of the sidewalk café area, as illustrated in the approved site plan required for permit.
      g. Outdoor furniture will not be easily wind borne i.e. plastic tables/chairs, lawn chairs, lightweight wicker.
      h. Applicant shall secure tables and chairs nightly.
   5. **Liability and Insurance.** By obtaining a Sidewalk Café Permit, the applicant agrees to indemnify, defend, save and hold harmless the City, its officers and employees, from any and all claims, liability, lawsuits, damages, and causes of action, which may arise out of the permit or the
permittee’s activity at the sidewalk café. Permittee shall provide commercial liability insurance in the amount of at least One Million Dollars ($1,000,000.00) per occurrence and name the City of Onalaska as additional insured and show how the coverage extends to the area used for the sidewalk café. Applicant shall execute an indemnification agreement approved by the City Attorney and submit an original certificate of insurance as required in the application prior to operation of the sidewalk café.

6. **Revocation of Suspension.** The approval of a Sidewalk Café Permit is conditional at all times. The City Administrator, Chief of Police, Zoning Administrator, Public Works Director or their designees may temporarily order the termination of sidewalk cafes at any time. Issuance of this permit under this ordinance is a privilege, not a right, to use the public right of way.

7. **Appeal.** A revocation, suspension, or denial of a permit may be appealed by the applicant or permit holder to the Common Council or designated Committee of the Council, which shall hold a hearing and either grant, grant with conditions, or deny the permit. The permit holder or applicant shall be notified and shall have the right to be heard prior to a decision.

8. **Penalty.** The penalty for violation of this section shall be a forfeiture of not less than Fifty Dollars ($50.00) or more than Two Hundred Dollars ($200.00) per day for each violation, together with the costs of prosecution.

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**JoAnn Marcon, WCMC**
City Clerk, City of Onalaska
415 Main Street, Onalaska, WI 54650
Population 19,330
Phone: 608-781-9530
Fax: 608-781-9534
E-Mail: jmarcon@onalaskawi.gov

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**From:** Jenny Salvo
**Sent:** Tuesday, September 14, 2021 11:27 AM
**To:** Clerk List
**Subject:** [External] [clerklist] Private Property on Public Sidewalk

Hi –

I am looking for ordinances and/or policies addressing private property on public sidewalk.

An example would be a business placing items for sale on the public sidewalk in front of their location.

**Jenny Salvo, City Clerk**
City of Milton | 710 S. Janesville St. | Milton, WI 53563
608.868.6900 ext. 2 | www.milton-wi.gov
Facebook | Twitter

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