

may, without first securing permission from the City Administrator, and at their own expense, repair, restore or replace such portion or portions of their physical facilities as have been damaged and create such emergency; provided, however, such person, firm, corporation, utility or public body shall make a full and complete report and within five (5) days of completion of the work to the City Administrator of the damages arising out of such emergency and the repairs, restoration or replacement made to their physical facilities.

- (g) **Minimum Conduit Depth.** All conduits, sewers, pipes, wires or other means of transmission of utility services within the City, if to be placed underground, shall, in addition to all of the requirements of this Section, be dug in at least thirty (30) inches below the normal ground level whenever said utility service will cross under a highway, City street, sidewalk, alley or other public right-of-way within the City of Hillsboro.

Cross-Reference: Sections 6.2.4 and 6.2.5

Section 6.2.22 Dumpsters on Public Ways

- (a) **Placement of Dumpsters on Public Ways.** No person, firm or corporation engaged in the business of leasing dumpsters or refuse containers for the storage of materials discarded or used in the process of construction or alteration of buildings, are to place or allow for placement of such dumpsters or refuse containers in any street, alley, highway, sidewalk, or other public way within the City without first obtaining a permit from the City Clerk.
- (b) **Application Requirements.** Applications for placement of a dumpster or refuse container on a public way shall be on the form provided by the City. Each placement of a dumpster or refuse container requires a separate application.
- (1) **Fees.** The permit fee for each dumpster or refuse container placed in any street or public way within the City shall be established by the City Council and set forth in the City's Fee Schedule.
- (2) **Liability and Insurance.** Permittee must assume primary liability for damages to persons or property resulting from the placement of the dumpster or refuse container. Prior to issuance of a permit provided for in this Section, the permittee must furnish the City written evidence that it has in force and will maintain during the term of the permit, public liability insurance of not less than Two Hundred Thousand Dollars (\$200,000) for one (1) person, Five Hundred Thousand Dollars (\$500,000) for one (1) accident and property damage of at least One Hundred Thousand Dollars (\$100,000). Each permittee shall provide the City with a certificate of insurance, naming the City as an additional insured.
- (3) **Security.** Each permittee shall provide a Five Hundred Dollar (\$500) bond from an approved insurance or security company as directed by the City Administrator in order to ensure the removal of any dumpster or refuse container ordered removed and to cover any damages that may occur to any public property as a result of the placement or removal of such.

- (4) **Waiver.** Each permittee shall waive the right to contest in any manner the validity of sec. 66.0425, Wis. Stats., and the amount of compensation charged pursuant to this Section.
- (c) **Duration.** The initial permit application covers an approved placement of a dumpster or refuse container for a period of fourteen (14) days. Additional time may be granted by the City Administrator, for good cause, upon the request of the permittee.
- (d) **Regulations.**
 - (1) Each dumpster or refuse container shall have posted thereon the name, address and telephone number of the owner.
 - (2) Each dumpster or refuse container shall be equipped with reflectorized tape and/or lighting sufficient enough to alert persons of its presence during hours of darkness.
 - (3) No dumpster or refuse container shall be placed as to interfere with public works construction being performed by the City.
 - (4) Upon notice from the City Administrator, the permittee shall move the dumpster upon seven (7) days notice from the City. If the permittee fails to move the dumpster it will be removed at the permittee's expense. Upon notice from the City Administrator or Chief of Police in the case of an emergency, the permittee shall move the dumpster or refuse container within twenty-four (24) hours, or more expeditiously if needed.
 - (5) No dumpster or refuse container shall be placed within fifty (50) feet of the radius of any intersection, nor shall it be placed in a position which blocks the line of sight of a vehicle entering or exiting an adjacent drive.
 - (6) No dumpster or refuse container may be placed on any public right of way between November 15 and March 15, without obtaining an emergency permit to do so.
 - (7) Any damage caused to public property as the result of the placement of any dumpster or refuse container shall be repaired and restored to its original condition.
- (e) **Violations.** Any person, firm or corporation who violates this section shall be fined not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500) for each violation. Each day shall constitute a separate violation.

Section 6.2.23 Sidewalk Use Permits

- (a) **Purpose.** The Common Council finds that the Downtown Commercial District would be better served if certain business could use the public sidewalk for outdoor cafe seating or for displaying merchandise under certain conditions. The Council hereby intends to create certain eligibility criteria and standards to allow for the issuance of Sidewalk Use Permits pursuant to this Section.
- (b) **Definitions.** The following definitions shall be applicable for this section:
 - (1) **Restaurant** means an establishment defined in Sec. 254.61(5) Wis. Stats. and whose food and other retail sales excluding the sale of alcoholic and alcoholic beverages are greater than fifty percent (50%) of its gross receipts.
 - (2) **Retail Store** means a business engaged in selling goods to the public for direct use and consumption but not for resale.

- (3) **Sidewalk Café** means an outdoor dining area in a public right-of-way that immediately adjoins the licensed restaurant premises for the purpose of consuming food or beverages prepared at the restaurant.
- (4) **Merchandise Display Area** means a display area in a public right-of-way that immediately adjoins the licensed retail store for which an occupancy use permit has been issued for the purpose of creating a display area for merchandise available for purchase in the retail store.
- (5) **Racks** shall mean holders or containers used to display/hold merchandise as well any other merchandise that may be displayed in the designated area.
- (c) **Eligibility Criteria.** To be eligible for a Sidewalk Use Permit, the applicant business must:
 - (1) Be a Restaurant and/or Retail Store;
 - (2) Be located in the Downtown Commercial District;
 - (3) Occupy first floor space that has direct access to a public sidewalk having a width of not less than eight feet (8').
- (d) **Permit Application.** A business that meets the eligibility criteria may apply for a permit with the City. The applicant must submit the application and the applicable fee to the City Clerk. The application shall include the following:
 - (1) A completed City Permit Application Form. Forms may be obtained from the City Clerk.
 - (2) A layout, drawn to scale, which accurately depicts the dimensions of the existing sidewalk area and adjacent private property, the proposed location of the sidewalk café or merchandise display area, the location of all doorways, trees, sidewalk benches, planters, trash receptacles, light poles, hydrants, and other sidewalk obstructions. The layout must also include all the specific elements that are to be located within the designated café and/or merchandise display area including, but not limited to, display racks, tables, chairs, planters, and barriers.
 - (3) Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed racks, tables, chairs, barriers and other objective relating to the sidewalk café or merchandise display area.
 - (4) An accurate description of the boundary of the area that the licensee seeks to be covered by the permit and a list of all property owners within one hundred and fifty (150) feet of such boundary.
 - (5) A description of the licensee's plan for operating and controlling the area.
- (e) **Notice and Consultation with City Officials.** The City Clerk shall notify the City Administrator and the Police Chief within seven (7) days of receiving the application and provide each with a copy. The City Administrator, the Police Chief, other relevant City officials, or their respective representatives, shall meet with the applicant, shall perform a walk-through of the proposed area, and shall review the details of the applicant's plan. The City Administrator or Police Chief shall report to the Common Council any additional details or information provided by the applicant that is not contained in the original application.
- (f) **Notice to Adjoining Property Owners.** The City Clerk shall notify all property owners within one hundred fifty (150) feet of the boundaries of the proposed permit area as

described in the application by first class mail within ten (10) days of receiving the application.

- (g) **Review of Sidewalk Use Permit Applications.** The Common Council shall review all Sidewalk Use Permit applications in light of the purposes of this Section, any recommendations of city officials, and the following standards:
- (1) Sidewalk use areas are restricted to the public right-of-way immediately adjacent to the restaurant or retail store to which the permit is issued and may only be operated by the restaurant or retail store to which the permit is issued.
 - (2) The sidewalk use must be for either a Sidewalk Café or Merchandise Display Area and must complement the operation of the restaurant or retail store in a manner that showcases or advertises the business to passersby.
 - (3) The business shall not use the sidewalk permit area after 10:00 p.m. or before 7:00 a.m., and shall not extend beyond the hours of operation of the respective restaurant or retail store, unless an exemption is granted by the Common Council to accommodate semi-permanent fixtures, flower pots, or other items expressly stated as being allowed beyond the hours of operation.
 - (4) Display racks, tables, chairs, umbrellas or other fixtures located in the area designated for the café or merchandise display:
 - a. Shall not be placed within two (2) feet of the curb of the street as measured by the closest edge of the table or seat with an occupant seated therein to the street.
 - b. Shall not be placed within five (5) feet of fire hydrants, alleys, or bike racks. Shall not be placed within four (4) feet of a pedestrian crosswalk or ten (10) feet of a corner curb cut.
 - c. Shall not block designated ingress, egress or fire exits from or to the restaurant, retail store or any other structure.
 - d. Shall be readily removable and shall not be physically attached, chained or in any manner affixed to any structure, tree, signpost, light pole, or other fixture, curb, or sidewalk, unless otherwise permitted by the Common Council.
 - e. Shall be removed from the public right-of-way during the period of November 1st to March 31st.
 - f. Shall be maintained in a clean, sanitary and safe manner.
 - (5) Sidewalk use areas shall be located in such a manner that provides for and maintains at all times a clear and unobstructed, continuous ADA compliant pedestrian path with a minimum width of not less than five (5) feet. For the purposes of the minimum clear path, traffic signs, trees, light poles and all similar obstacles shall be considered obstructions.
 - (6) Tables and chairs in the sidewalk use area shall be “Commercial Grade” with chairs being constructed to accommodate a weight of at least 250 pounds. Umbrellas and other decorative material shall be made of treated wood, canvas, cloth or similar material that is manufactured to be fire-resistant. No portion of an umbrella shall be less than six (6) feet eight (8) inches above the sidewalk.
 - (7) All signs shall be in accordance with the City Sign Ordinance.
 - (8) No amplified sound or entertainment shall be allowed.

- (9) The area encompassing any sidewalk café shall be roped off or otherwise enclosed by a freestanding barrier on all dates and at all times while in use. Acceptable materials for the barrier include, but are not limited to, attractive fence segments, flowers/plants, bollards, artwork and decorative menu boards, subject to the approval of the City of Hillsboro. Barrier elements shall be connected in such a manner that creates an appearance that the sidewalk café is located within an enclosed area. The barrier element should be designed to allow for it to be closed off from the public when not in use.

The Common Council may approve or deny the permit application, or may approve the application subject to additional conditions to address any concerns or issues the Council deems necessary to ensure the above criteria will be satisfied and for general public health, welfare, safety, and good order of the City

- (h) **Permit Regulations.** If a sidewalk use permit is granted, the permit holder must abide by the following regulations. Failure to comply with these regulations may be grounds for suspension, non-renewal, or revocation of the sidewalk use permit.
 - (1) **Alcohol Consumption.** A permittee may not sell or serve alcohol beverages to a sidewalk café unless the permit holder complies with all the requirements for obtaining an outdoor consumption permit, as described in Section 7.2.19, and the sidewalk café is listed on the alcohol beverage license application as being a part of the licensed premises.
 - (2) **Insurance Requirement and Indemnification.** No sidewalk use permit shall be issued unless the applicant furnishes to the City Clerk evidence of public liability insurance. As a condition of the permit, the permit holder indemnifies the City, its officers, and its employees from any liability or damages arising from the use of the sidewalk, including costs and reasonably attorney fees, and the City, its officers, and its employees shall not be responsible for any furniture, equipment, or merchandise that may be relocated, stolen, or damaged.
 - (3) **Permit Duration.** Each permit shall be effective for a seven-month period commencing April 1 and ending October 31 of each year. The sidewalk shall be completely clear of all furniture, equipment, and merchandise from November 1st to March 31st.
 - (4) **Permit Display.** A copy of the site plan, as approved in conjunction with the sidewalk use permit shall be maintained on the permit holder's premise and shall be available for inspection by city personnel at all times.
- (i) **Temporary Removal.** The permit holder's use of the public right-of-way as a sidewalk café or merchandise display area shall not be an exclusive use. All public improvements, or any public initiated maintenance procedures, shall take precedence over said use of the public right-of-way at all times. The City Administrator, Chief of Police, Director of Public Works or their designee may temporarily order the removal of the sidewalk café/merchandise display area for special events including, but not limited to, parades, sponsored runs or walks, maintenance, or for public health or safety concerns.
- (j) **Revocation or Suspension.** Failure to comply with any of the provisions of this Section may be grounds for denial, suspension, non-renewal, or revocation of the permits issued

pursuant to this Section. The permit may be revoked at any time for any reason in the sole discretion of the Common Council.

- (k) **Fee.** The fee for a Sidewalk Use Permit shall be set annually by the Common Council.