

City of Marshfield Policies and Procedures

Chapter 5: Public Works

CHAPTER: Public Works Administration and Permitting

SUBJECT: Public Right-of-Way Enhancement/Use Program Policies and Procedures

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DEPARTMENT OF PRIMARY RESPONSIBILITY: Public Works, Development Services

APPROVED: _____

Section 1. PURPOSE AND INTENT OF THE PROGRAM

The purpose of the PROW Enhancement Program (hereinafter referred to as “Program”) is to optimize the growth and income of retail businesses and restaurants by allowing and encouraging the use of portions of the public right-of-way between the curb and the adjacent property line for properties in a mixed use zoning district, between Veterans Parkway and 11th Street, fronting Chestnut Avenue, Central Avenue, Maple Avenue (rights-of-way extended), including side streets between Chestnut Avenue and Maple Avenue. The Program seeks to promote an environment that encourages pedestrian traffic, and drive-by traffic attracted by the enhanced streetscape environment.

The Program’s areas of endeavor are freestanding signs, outdoor decorations, merchandise, outdoor seating area, and outdoor dining areas. A business owner will be allowed to locate certain items in the public right-of-way provided he or she files the appropriate application, and conforms to the requirements of the Program. It is not the intent of the Program to supersede City of Marshfield authorized events utilizing the public right-of-way in the downtown business district nor to set aside existing or future City, State, or Federal regulations. Permittee’s use of the right-of-way shall in all matters be subordinate to the City of Marshfield’s use or occupation of the right-of-way.

MSPROW is comprised of the Executive Director of Main Street Marshfield, Inc. or their designee, one (1) Board member from Main Street Marshfield, Inc, and one (1) owner of a business located within the BID district. This committee shall be voluntary and advisory to the City of Marshfield Engineer. This committee will assist the City of Marshfield in obtaining information and by making recommendations on utilization of the PROW.

Festival Days sponsored, promoted or authorized by the City of Marshfield are not a part of this Program.

Section 2. ABBREVIATIONS AND DEFINITIONS

ABBREVIATIONS

BID – Business Improvement District

MSPROW – Main Street Public Right-of Way Committee

BPW – City of Marshfield Board of Public Works

DEFINITIONS

Clear Area: the area on the existing sidewalk adjacent to Enhancements or Obstructions as required for a clear path of travel or for maintenance or access. This area must be a minimum of five feet.

Clear Path of Travel or Path of Travel: a route on the existing sidewalk for use by pedestrian and wheelchair users that provides free and unobstructed access in the PROW and to the egress and ingress of a building, this path must be a minimum of five feet.

Festival Day: Shall be defined as an event, or series of related events involving a subject matter of interest to a significant portion of the residents of the City of Marshfield which promotes civic pride in the City of Marshfield. A Festival Day is not purely a commercial enterprise but is an event where the proceeds, if any, will directly benefit either a charitable or non-profit organization. These events include but are not limited to Dairyfest, Hub City Days, Maple Fall Fest, the Central Wisconsin State Fair, and the Holiday Parade.

Enhancements: Privately owned items located in the PROW, including but not limited to merchandise, Freestanding signs, outdoor display items, and outdoor seating or dining furniture including chairs, tables, umbrellas, planter pots and boxes, sculptural works, and temporary railings.

Freestanding sign: A temporary sign that rests on the ground that is neither temporarily nor permanently attached to the ground, an adjacent building, or any other structure.

Limitation of space: The City of Marshfield Engineer shall have the power to prohibit or limit the placement of Enhancements into the PROW if there is insufficient space to accommodate all of the requests of persons to occupy and use the right-of-way. In making such decisions, the City of Marshfield Engineer shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the general welfare and safety of the public.

Multi-tenant: A building which contains more than one business.

Obstruction: Publicly owned temporary or permanent objects that might restrict pedestrian travel and access within the PROW. Obstructions include but are not limited to fire hydrants, lamp posts, trees, tree wells, parking meters, street furniture, trash receptacles, kiosks, utility pedestals, newspaper racks, and benches.

Outdoor Seating Area: Any temporary seating area in the PROW that is not considered to be an Outdoor Dining Area. Permitted only in the colored concrete area of the sidewalk or location approved by the City Engineer, and does not have to be associated with an existing restaurant. Food and non-alcoholic beverages may be served, and no alcohol is allowed under this use.

Outdoor Dining Area: An outdoor temporary dining area in the PROW adjacent to or in front of established restaurant.

Outdoor Decoration Item: A Privately owned item being displayed for public view and located outside a building in the PROW; this is further defined as seasonal decorations that would be placed directly in the PROW. This does not include seasonal decorations owned and placed by the Main Street Marshfield, Inc. or the City of Marshfield.

Promotional Events: Those events which are designated by the Main Street Marshfield, Inc. Promotion Committee and approved by the Main Street Marshfield, Inc. Board of Directors. Promotional Events include but are not limited to: Customer Appreciation Day, Your Thursdays, Holiday Wine Walk, and Downtown Trick-or-Treating.

Public Right-of-Way (PROW): Means the area on, below or above the present and future city streets, improved or unimproved public roadway, alleys, bridges, bikeways, tree lawn or green space, sidewalks, curbs and drive aprons in which the City of Marshfield has an interest, including other dedicated rights-of way for travel purposes.

Seasonal: Those seasons celebrated around equinox, spring, summer, fall and winter, or the holidays.

Section 3. GENERAL REQUIREMENTS

- 1) The City of Marshfield's rights with respect to the PROW shall remain and continue in full force and effect and shall in no way be affected by this policy. Any and all City of Marshfield Festival Days are outside the purview of this policy. As a condition precedent to issuance of a permit, the applicant Business/Property owner shall agree to defend, indemnify and hold Main Street Marshfield, Inc. and the City of Marshfield and their respective officers, directors and employees, free and harmless from any and all third party claims, costs, demands, losses, damages, causes of action and expenses, including reasonable attorneys fees, and other liability of every nature whatsoever that Main Street Marshfield Inc., and/or the City of Marshfield may sustain or incur in any manner arising from the construction, maintenance, state of use, repair, or presence of Enhancements within the PROW, including any loss, damage or expenses arising out of loss of or damage to property, and injury to or death of persons. Further, said applicant Business/Property owner shall remise, release, forever discharge and waive the right to sue or bring action against Main Street Marshfield, Inc. and the City of Marshfield and their respective officers, directors and employees, for any claims, losses, costs, expenses, attorney fees, or other liability of every nature

- whatsoever in law or in equity, whether direct, indirect or derivative, whether known or unknown, incurred or accrued, anticipated or unanticipated, including those which may be incurred or which may accrue in the future.
- 2) The Business Owner shall maintain the PROW adjacent to their business as a clear area in a safe and sanitary condition at the sole expense, risk and responsibility of the Business Owner.
 - 3) The scope of the Program does not include any work performed or Enhancements, whether temporary or permanent in nature, on private property. While City of Marshfield ordinance may restrict or prohibit the use of Enhancements on private property, it is the sole responsibility of the Business Owner to determine the location of the property line and any and all applicable regulations for private property.

Section 4. PLACEMENT OF ENHANCEMENTS

All Enhancements must conform to the following requirements:

- 1) Businesses are allowed to place enhancements on colored pavement or against their façade as long as a minimum width of 5'-0" is available for a clear path of travel on the sidewalk.
- 2) If no colored pavement exists on the sidewalk in front of the establishment or if the establishment wishes to place enhancements outside of the color pavement area, the City Engineer shall review the request and decide on the placement of Enhancements.
- 3) All Enhancements shall be placed upon that part of the PROW which immediately adjoins the premise of the business.
- 4) Enhancements shall be allowed year round as long as weather permits. Enhancements must be moved indoors during inclement weather and must not impede snow removal.
- 5) Enhancements shall not be placed within the vehicular visibility areas, including but not limited to the 30' from the intersection of any two streets and 10' from a driveway or alley intersecting a street.
- 6) Enhancements shall be placed so as to maintain a clear path of travel that has a minimum width of 5'-0".
- 7) Enhancements shall be placed no closer than within two feet (2') of the curb.
- 8) Enhancements shall not block or obstruct access to building entrances and exits and public property.
- 9) Enhancements shall not substantially obstruct a business or restaurant's transparency (i.e. the views into a store or restaurants interior and window displays).
- 10) Enhancements shall be placed a minimum of five feet from any obstruction, including but not limited to fire hydrants and utility poles.
- 11) Enhancements (except for seasonal decorations, flowerpots, flower planter boxes, benches, statuary, and Enhancements related to an Outdoor Dining Area approved by the Board of Public Works) are permitted in the PROW during business hours only. Storage of these items during non-business hours off of the public right-of-way shall be the responsibility of the business owner.
- 12) Enhancements shall not be attached to public utility boxes and poles or other Obstructions unless approved by Marshfield Utilities.

- 13) Enhancements shall be of professional quality and shall comply with all federal, state and local regulations.
- 14) Enhancements shall be kept in state of good repair. Any damaged, cracked, broken, poorly maintained or other Enhancements in need of repair shall not be placed in the PROW at any time.
- 15) Enhancements, with the exception of freestanding signs, must be reviewed by the MSPROW and approved by the City Engineer. All enhancements may be subject to review, approval, or removal by the City Engineer if they become a safety hazard or potential concern of the MSPROW.

Section 5. FREESTANDING SIGN STANDARDS

A business having a freestanding sign must comply with the terms and conditions of Chapter 24 of the Municipal Code, and the following additional standards:

- 1) Quantity
 - a) Only one (1) freestanding sign per business is allowed.
 - b) A maximum of two (2) faces per sign is allowed.
- 2) Placement
 - a) Freestanding signs shall be located in front of the business it represents, with not more than one (1) sign per twenty-two (22) linear feet of frontage.
 - b) May be placed in the PROW throughout the year, only when clear of snow.
 - c) Freestanding signs must be approved by the Executive Director of Main Street Marshfield, Inc.
- 3) Size, Appearance and Design
 - a) The maximum base area of a freestanding sign shall be not greater than three (3) feet in width and two (2) feet in depth. The combined height and width shall not exceed 6 square feet.
 - b) The sign shall be a style that will continue to the ground for detection by those who are visually impaired.
 - c) The bottom two (2) inches of the sign shall have a strong contrasting color to that of the ground for detection by pedestrians.
 - d) The style of the sign's graphics shall be professional in quality and complement the business' permanent building sign(s), if any.
 - e) The sign shall be made of a durable material(s), such as medium density overlay plywood painted with enamel paint, stainless or other weather resistant steel, laminate plastic or slate chalkboard. No glass, breakable materials or attached illumination shall be allowed. Every sign and all parts, portions, and materials shall be of professional quality and shall be manufactured, assembled, and erected in compliance with all applicable federal, state, and local regulations.
 - f) Wind-activated items are at the discretion of MSPROW and the City Engineer. Enhancements must be firmly secured and without risk of being blown away. No enhancements shall be fastened to any city owned light poles, fire hydrants, plantings, signs or furniture.
 - g) The sign shall have no sharp edges or corners. All surfaces shall be smooth and be free of protruding tacks, nails and wires.
- 4) Multi-tenant Buildings

- a) It shall be the building owner's responsibility to coordinate the display times and locations of all Enhancements when two or more businesses have received a PROW permit to utilize the same space.

Section 6. OUTDOOR DINING AREA STANDARDS

Any food establishment which operates a restaurant and is licensed under the Municipal Code may, with a written application made to Main Street Marshfield, Inc., reviewed by MSPROW, and approval from the Board of Public Works and Common Council (with approval of the BPW minutes), expand the operation of that restaurant onto a part and only that part, of the public sidewalk, which immediately adjoins or is within a reasonable distance of the licensed premises. Renewal of applications approved previously will not require approval by the Board of Public Works provided that there have not been significant issues with the use and that there are no significant changes to the proposed use.

1) Use

All outdoor dining areas must comply with the requirements of Section 3. The Board of Public Works shall set conditions for any Outdoor Dining Area upon review of a completed application. The Board shall approve, deny, or approve with conditions, the request based on an analysis of the following and may prohibit certain provisions or set limits based on the proposed location of the Outdoor Dining Area:

- a) All tables and chairs shall be kept in a clean and sanitary condition.
- b) Alcoholic beverages may be permitted within the outdoor dining area provided the liquor license is properly amended.
- c) If approved, alcohol may only be consumed within the dining area and may only be served in non-breakable containers such as cans or plastic containers. The BPW may limit alcohol to only be permitted when food is served concurrently.
- d) Enhancements may remain in the outdoor dining area through the duration of the outdoor dining area use in a given year provided the Applicant is able to anchor or lock the furniture away and demonstrate to the BPW that the Enhancements will not become a hazard to the public.
- e) The dining area shall be designated as a "No Smoking" area.
- f) Any music or entertainment shall meet the requirements of the noise ordinance.
- g) Patron seating and service will be limited to area defined by specified boundaries approved by the Board of Public Works.
- h) The Applicant is able to clearly define the outdoor dining area with an appropriate barrier as defined by the Board of Public Works.
- i) The outdoor dining area shall be closed by 10:00 pm daily or a time determined by the BPW.
- j) The outdoor dining area shall be properly lit when in use.
- k) A certificate of liability is required with the liquor license amendment in the amount of \$100,000 or amount determined by the BPW.

2) Size, Appearance and Design

- a) Outdoor Dining Area shall remain uncluttered at all times.
- b) Tables and chairs and all other Enhancements placed in the PROW shall be metal, wood, durable plastic, or other similar material, and must be of

professional quality, must be and remain in good condition and not require repair. Umbrellas must be in good condition, be fire-treated, and not require repair.

- c) Proper and appropriate lighting must be installed to allow proper visibility for customers and pedestrians. All lighting whether attached to the building or freestanding, must comply with all applicable local, state and federal requirements. No cables, cords or wires shall cross the PROW either on the ground or overhead.

Section 7. ITEMS PROHIBITED WITHIN THE PROW

Any enhancement not falling within the approved categories above shall not be displayed in the PROW, including but not limited to the following:

- (a) Alcoholic beverages (unless approved as part of an Outdoor Dining Area).
- (b) Tobacco, cigarettes, and smoking accessories.
- (c) Upholstered items with a cumulative height, width and depth of nine feet or more.
- (d) Vending and dispensing equipment.
- (e) Adult-oriented material.
- (f) Mattresses.
- (g) Major appliances.
- (h) Live animals.
- (i) Weapons.
- (j) Pedestal signs
- (k) Cash registers
- (l) Any enhancement that is determined to impede normal pedestrian traffic and/or is determined to threaten the health, safety and welfare of the public.

Section 8. APPLICATION AND PERMIT CONDITIONS

- 1) The person(s), business, or entity desiring participation in the Program (hereinafter the "applicant") shall complete the application and any appropriate or applicable plans and submit the same to the Main Street Marshfield, Inc. office.
- 2) An applicant shall, with the signed application, provide a drawing of the proposed Enhancements and area to be used. The drawing shall indicate the curb and property lines, all existing and proposed obstructions (traffic signs, traffic lights, street lights, benches, fire hydrants, etc.), and the size and location of all proposed Enhancements to be placed within the PROW. *Applicants for any businesses located at a corner property or on a property that has frontage on more than one (1) street shall provide information for both street frontages.*
- 3) A copy of the insurance certificate shall be attached to and submitted with the application.
- 4) The MSPROW committee shall submit a written recommendation to the City of Marshfield Engineer within seven (7) days of receiving the application.
- 5) The application and any authorized approval are not transferable at any time to any other business, entity or person of any kind or nature. Any and all changes require an amended application and approval, except the removal of damaged items.

- 6) A non-refundable fee, as established by Main Street Marshfield, Inc. shall accompany each application. This shall be made payable to Main Street Marshfield, Inc. Each application shall be renewed on an annual basis.
- 7) Obtaining a right-of-way permit does not relieve the applicant of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other City of Marshfield ordinance or other applicable rule, law or regulations.
- 8) Permit Denial: A permit may be denied for the following reasons.
To any person who is presently not in full compliance with the Municipal Code.
 - a) To any person who has outstanding debt owed to the City of Marshfield that is in arrears, due, owing and unpaid.
 - b) To any person as to whom there exists grounds for the revocation of any other permit under this section.
 - c) If there is insufficient space to accommodate the request of persons to occupy and use the right-of-way.
 - d) If the health, safety and welfare of the public is placed in jeopardy.

Section 9. ENFORCEMENT

Enhancements that do not comply with the provisions of this Program are not allowed.

- 1) A Business Owner shall immediately remove or relocate Enhancements and/or displays, at the Business Owner's own expense, upon notice by Main Street Marshfield, Inc. acting alone or in coordination with the City of Marshfield, or upon receipt of written or verbal notice from the City of Marshfield. Service by regular mail will be sufficient for purposes of this paragraph.
- 2) If the Business owner fails to repair, remove or relocate the enhancement and/or display in a timely manner, the City of Marshfield may remove, relocate or repair said enhancement and/or display or cause such removal, relocation or repair to be done and charge the Business owner for the cost of the work, at the sole discretion of the City of Marshfield, without further notice to the Business Owner. In the alternative or in addition to the above action, the City of Marshfield can fine the violator pursuant to the Municipal Code (Municipal Code Sec. 13-04). Pursuant to law, the City of Marshfield has the authority to compel immediate removal or relocation to protect the life, health and safety of the public.
- 3) Enforcement: Failure to comply with provisions of this section may result in administrative fines, restrictions or penalties as provided herein (Municipal Code Sec. 1-05).