

ORDINANCE NO. ORD-12-08

First Reading: April 2, 2012 Published:

Public Hearing: April 16, 2012 Effective:

STREETS AND SIDEWALKS

AN ORDINANCE TO AMEND SECTION 4:14 OF CHAPTER 47 (STREETS AND SIDEWALKS) OF TITLE IV OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Section 4:14 of Chapter 47 of Title IV of the Code of the City of Ann Arbor shall be amended to read as follows:

4:14. - Street and sidewalk occupancy permits.

(1) The City Administrator may issue revocable permits to occupy a portion of any City street or sidewalk if the Administrator determines the occupancy will not:

- (a) Interfere with the use of the street or sidewalk for pedestrian or vehicular travel.
- (b) Unreasonably interfere with the view or access to or use of property adjacent to said street.
- (c) Reduce any sidewalk width to less than 6 feet.
- (d) Interfere with street cleaning or snow removal activities.
- (e) Cause damage to the street or sidewalk or to trees, benches, landscaping or other objects lawfully located therein.
- (f) Cause a violation of any State or local laws.
- (g) Be principally used for off-premises commercial advertising, except for portable business signs within the Downtown Development Authority district that meet the following requirements:
 - i. One portable off-premise business sign is allowed for each business in the building, up to a maximum of 2 signs per building entrance that fronts the sidewalk. A sign may contain advertising for more than 1 business on the property.
 - ii. Portable off-premise business signs shall be constructed of durable and

weather-resistant materials without sharp edges, moving parts, electrical devices, lights or protrusions that could be hazardous to pedestrians.

iii. Portable off-premise business signs shall be properly designed and heavy enough to withstand typical winds without tipping over, rocking or sliding.

iv. Portable off-premise business signs placed on the ground shall be no more than 42 inches in height and occupy no more than 4 square feet of area. Portable off-premise signs mounted on tables or dining enclosures shall be no larger than 4 square feet in area and contain no more than 2 faces.

v. Portable off-premise signs shall not resemble any official traffic control device.

vi. Portable off-premise business signs shall be located on the sidewalk in front of the property in which the business is located, a minimum of 18 inches from the face of curb and a minimum of 6 feet away from the front property line. A portable off-premise business sign shall in no case impede pedestrian travel in a sidewalk area.

vii. Portable off-premise business signs shall not obstruct access to fire hydrants, fire department connections, parking meters or stations, bicycle racks or curb ramps or interfere with the opening of vehicle doors where a vehicle may legally stop, stand or park.

viii. Portable off-premise business signs shall be moved indoors when the business is closed.

ix. Portable off-premise business signs shall be moved indoors after the accumulation of 1 inch or more of snow and shall not be put back until the entire sidewalk on the side of the street where the business is located is clear of snow and ice.

x. If the portable off-premise business sign advertises goods or services covered by an annual or daily sidewalk occupancy permit, the sign shall be located inside of the sidewalk occupancy area.

(h) Conceal or detract from the appearance of landscaping features in or adjacent to the street.

(i) Be in or adjacent to property zoned exclusively for residential purposes.

(j) Be attached to or reduce the effectiveness of or access to any utility pole, sign or other traffic control device.

(k) Cause increased risk of theft or vandalism.

(l) Operate within 75 feet of a business with which it is in direct competition without first receiving permission from the business owner.

(m) Violate regulations adopted by the Administrator to interpret and implement the provisions of this section.

(2) Types of permits and application period. The following permits shall be available to

(a) *Annual Sidewalk Occupancy*. Permits run from ~~May 1 to April 30~~ June 1 to May 31. From April 1 to April 30 of each year, the owner or manager of a business located at street level shall have first opportunity to apply for an annual permit ~~under this Section 4.14 for~~ that starts June 1 to occupy sidewalk space directly adjacent to that business. Between April 1 and April 30 of each year, neither an owner nor a manager of a business located at street level shall be granted an annual permit for sidewalk space beyond the space directly adjacent to that business without the written consent of the owner or manager of the street level business(es) located directly adjacent to such additional sidewalk space. The written consent must be filed with the application. After April 30, anyone may apply for an annual permit. After April 30, the applicant for an annual permit shall provide written notice addressed to "Business Owner or Manager" at the address directly adjacent to the sidewalk area to be occupied, at least 72 hours before a permit can be issued to occupy any area between the edge of the vehicle use area of the street and the right-of-way or property line. The notice shall include a description of the area to be occupied, the goods or services to be offered, and a listing of the conditions for occupancy under Section 4:14(1) above.

(b) *Daily Sidewalk Occupancy*. All applicants who wish to apply for a daily permit beginning May 1 shall provide written notice addressed to "Business Owner or Manager" at the address directly adjacent to the sidewalk area to be occupied, at least 72 hours before a permit can be issued to occupy any area between the edge of the vehicle use area of the street and the right-of-way or property line. The notice shall include a description of the area to be occupied, the goods or services to be offered, and a listing of the conditions for occupancy under Section 4:14(1) above.

(c) *Annual Portable Off-Premise Business Sign*. Permits run from July 1 to June 30. From June 1 to June 30 of each year, the owner or manager of a business shall have first opportunity to apply for an annual portable off-premise business sign permit under Section 4:14(g) for the sidewalk directly in front of the property in which the business is located. After June 30, an owner or a manager of a business located in the Downtown Development Authority district may apply for an annual portable off-premise business sign permit for a sidewalk that is not directly in front of the property in which the business is located. Such a permit shall be granted if 1) the requesting business has not applied for or received an annual portable off-premise business sign permit for the sidewalk in front of the property in which the business is located, 2) space is available in the proposed location, and 3) written consent has been provided from the owner or manager of the property located directly adjacent to the requested sidewalk space.

(3) Permit fees:

(a) The fee for annual sidewalk occupancy permits shall be \$1.00 for each square

foot of sidewalk area to be occupied for the period beginning ~~May~~June 1 and ending ~~April 30~~May 31. The fee for a daily sidewalk occupancy permit shall be \$0.05 per day for each square foot of sidewalk area to be occupied. The fee for an annual portable off-premise business sign shall be \$50.00 for signs located outside of an annual sidewalk occupancy permit area.

(b) In computing the area of occupancy on a sidewalk, all remaining sidewalk area of less than 6 feet in width shall be included.

(c) In computing the area of occupancy of the vehicular use area of any street which must be closed in connection with issuance of a permit, the entire width of the vehicle use area must be included.

(4) In addition to the other requirements herein specified, the approval of the City Council shall be required for all such street occupancy involving the closing of the vehicle use area of any street in connection with the sale of goods or services.

(5) All permits shall specify the name of the person to whom it is issued and the dates street or sidewalk occupancy is permitted. The permits shall be valid only for the period specified and for occupancy by the person to whom it is issued. An applicant may submit an application for a daily permit no sooner than 30 days in advance of the period during which a permit is desired.

(6) Any group or association applying for such a permit in connection with the sale of goods or services shall supply with its permit application all rules by which members of the group are permitted to participate in the activities involving the street occupancy. No permit shall be issued if such rules violate any provisions of this Code.

(7) Any street or sidewalk occupancy permit may be revoked by the Administrator upon a finding that the occupancy does not meet the standards of this Section, any other provisions of this Code or other applicable law or that the space is needed for other street purposes or as provided for the revocation of permits under Chapter 76. Upon a revocation because the space is needed for other street purposes, only, the fee paid for any period after termination of the street occupancy shall be refunded.

(8) Street or sidewalk occupancy permits of indefinite duration may be issued for newsracks which comply with this subsection upon the payment of a processing fee of \$2.00 per newsrack. To comply with this section, a newsrack must not occupy more than 2.5 square feet of street space, must not be more than 4.2 feet in height, must be used solely for the distribution of newspapers and may contain up to 4 square feet of advertising copy. As used in this subsection, "newspaper" means a news reporting periodical distributed at least quarterly. Newsracks regulated by this subsection shall be subject to the other provisions of this section, with the exception of subsection (3).

(9) Persons who are refused a street or sidewalk occupancy permit, have their street occupancy permit revoked, or wish to protest the issuance of a street occupancy permit that has been issued, may have a hearing on that determination before the City Administrator. The decision of the Administrator may be appealed to the City Council. Requests for a hearing or an appeal must be made within 5 days of the questioned

decision.

(10) Before any street or sidewalk occupancy permit is issued to an applicant proposing to sell or solicit for sale any food or produce for human consumption, certification must be received from the County Health Officer. For purposes of this subsection only, a non-motorized vendor cart or other similar non-motorized apparatus used for the sale or solicitation for sale of any food or produce for human consumption may be located on the sidewalk notwithstanding any other provision of the Ann Arbor City Code to the contrary.

(11) The Administrator is authorized to adopt regulations subject to the approval of the City Council to interpret and implement the provisions of this section, except that the City Council may determine by resolution that on certain dates congestion in the City or a part of the City will be too great to permit street or sidewalk occupancy and that permits shall not be issued for those dates and locations.

(12) Prior to issuance of a street or sidewalk occupancy permit, the applicant shall provide evidence of liability insurance as prescribed in Section 4:3

(13) In addition to any other provisions of this Code, no person shall violate any of the following provisions:

(a) *Showing of permit.* All persons who are issued a permit under this section shall display their permit in a prominent manner so that it is visible to the public while conducting activities permitted by this chapter.

(b) *Refuse.* The street or sidewalk occupancy permit holder shall provide refuse receptacles, which shall be used for all refuse generated by the street or sidewalk occupancy permit holder's activities conducted under this Chapter. Such refuse shall not be deposited in City refuse containers. The street or sidewalk occupancy permit holder shall remove the refuse receptacles at the end of the permit holder's business day and leave the public right-of-way clean and free of all refuse.

(c) *Pedestrian obstruction.* No person shall conduct business or any activities permitted by this Chapter in such a manner as to obstruct the free and uninterrupted passage of the public along the sidewalk. A violation of this subsection shall be a civil infraction, which shall be punishable by a fine of not more than \$1,000.00 plus costs.

(d) *Limited hours.* No person shall keep a vendor cart or any other apparatus used in connection with the vendor cart in the permitted area or on any other sidewalk area or allow it to remain for more than 24 hours. Any vendor carts or any other apparatus found in the permitted area or any other sidewalk area in violation of this section shall be subject to seizure and impoundment by the City.

(e) *Affixing to stationary objects.* No person shall permit a vendor cart or portable off-premise business sign used in connection with the permitted sidewalk occupancy to be affixed to any stationary object, including but not limited to parking meters, light poles and traffic control devices, or any other stationary object located

in the public street or sidewalk.

(f) *Generators.* No person shall use a motorized generator in connection with any activities related to sidewalk occupancy.

(g) *Sidewalk access.* No person shall drive a motorized vehicle upon or within any sidewalk area for any purpose, including but not limited to placing a vendor cart or any other apparatus used in connection with the sidewalk occupancy on the sidewalk or removing it from the sidewalk.

(h) *Unattended carts.* No person shall leave a vendor cart used in connection with the permitted sidewalk occupancy unattended. Any vendor cart found in the permitted area or any other sidewalk area to be unattended shall be subject to seizure and impoundment by the City.

Section 2. This Ordinance shall take effect on the tenth day following legal publication