



## Legislation Text

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**File #:** 08-0811, **Version:** 2

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An Ordinance to Amend Chapter 47 (Streets) of Title IV of the Code of the City of Ann Arbor regarding the Ann Arbor Sidewalk Vendor Program (Ordinance No. ORD-08-33)

Attached is a proposed ordinance to the City's sidewalk vendor program. In March 2008, City Council directed the City Administrator to recommend policies, procedures and ordinance revisions to the current program. Following meetings with stakeholders associated with the sidewalk vendor program and review of the input received, staff developed revisions to the ordinance.

The proposed ordinance amendments address the issues of motorized generator use, the abandonment of vendor carts, licensing requirements, leaving vendor carts unattended and affixed to stationary objects, and the distance in which a vendor can sell his/her wares in direct competition with a business owner.

Also proposed is the use of ordinance officers and downtown beat officers to more regularly monitor the implementation of all sidewalk vendor regulations. The new ordinance provides for the impoundment of vendor carts and seizure of merchandise and fines if a vendor is found operating with the City limits in violation.

Adjustments were made to the ordinance to coincide with the dates that the Washtenaw County Health Department issues permits for vendor carts.

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Reviewed By: Mark Lloyd, Planning & Development Services Manager

Approved By: Roger W. Fraser, City Administrator

ORDINANCE NO. ORD-08-33

First Reading : September 8, 2008

Public Hearing : September 22, 2008

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Effective: October 8, 2008

STREETS (Regarding the Ann Arbor Sidewalk Vendor Program)

AN ORDINANCE TO AMEND CHAPTER 47 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 is amended 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 under the following terms and conditions:

(1) Such permits shall be issued 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 advertising.
- (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.* There shall be 2 different permits available to an applicant, annual and daily.

- (a) *Annual.* Permits run from April 1 to March 31. From March 1 to March 31 **May 1 to April 30.** 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 beginning April**May** 1 under this section 4:14 for sidewalk space directly adjacent to that business. Between March**April** 1 and March 31**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 March 31~~April~~ ~~30~~, anyone may apply for an annual permit. After March 31~~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.* All applicants who wish to apply for a daily permit between March 1 and March 31 shall get written consent from the owner or manager of the street level business directly adjacent to the sidewalk area to be occupied before a daily 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 written consent must be filed with the application. After March 31, the applicant 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.

(3) *Permit fees:*

- (a) The fee for annual permits shall be \$1.00 for each square foot of sidewalk area to be occupied for the period beginning April~~May~~ 1 and ending March 31~~April~~ ~~30~~. The fee for a daily permit shall be \$0.05 per day for each square foot of sidewalk area to be occupied.
- (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 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. That this ordinance shall take effect on the tenth day following legal publication.