

CITY OF OBERLIN, OHIO

ORDINANCE No. 19-56 AC CMS

AN ORDINANCE ENACTING NEW CHAPTER 798 OF THE OBERLIN CODIFIED ORDINANCES ENACTING REGULATIONS APPLICABLE TO SIDEWALK SIGNS IN THE COMMERCIAL DOWNTOWN AREA AND AMENDING SECTION 795.02 OF THE OBERLIN CODIFIED ORDINANCES

WHEREAS, the City Planning Commission has reviewed draft proposed regulations applicable to sidewalk signs in the commercial downtown area; and,

WHEREAS, it is recommended by City staff and the Planning Commission that regulations applicable to sidewalk signs in the Downtown area as are set forth in Exhibit A be adopted and that Section 795.02 of the Oberlin Codified Ordinances be amended as is set forth in Exhibit B.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1: That new Chapter 798 of the Oberlin Codified Ordinances as is set forth in Exhibit A attached hereto be and is hereby enacted.

SECTION 2: That Section 795.02 of the Oberlin Codified Ordinances be and is hereby amended to read as is set forth in Exhibit B attached hereto.

SECTION 2: It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3: That this ordinance shall take effect at the earliest date allowed by law.

PASSED: 1st Reading: September 16, 2019

2nd Reading: October 7, 2019

3rd Reading: October 21, 2019

ATTEST:


BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL


BRYAN BURGESS
PRESIDENT OF COUNCIL

POSTED: 10/22/2019

EFFECTIVE DATE: 11/202019

795.02 BUSINESS ACTIVITY ON DOWNTOWN SIDEWALKS.

(a) Purpose.

(1) The City of Oberlin recognizes and supports the vitality and activity that is created by outdoor business activities within the "downtown business district". The operation of such business activities or other uses within the public street rights-of-way, however, requires careful consideration and review to ensure that such uses function in a manner as to create the aforementioned benefits without any negative effects.

(2) The purpose of establishing these guidelines is to create a pleasant downtown environment for visitors and residents, to prevent obstructions on public sidewalks in areas characterized by high volumes of pedestrian traffic and the congregation of pedestrians on sidewalks associated with sidewalk business activity, and to ensure that adequate efforts are made to protect the health, safety and welfare of the public by requiring certain minimum levels access, sanitation and cleanliness.

(b) **Definitions.** The following definitions are provided to assist with the interpretation of these guidelines:

(1) **Right-of-way.** The public right-of-way is defined as an area of land over which a government has possession of rights for public passage or use, such area being occupied or intended to be occupied by a street, road, highway, alley, sidewalk, crosswalk, or for the installation of public or private utilities within the corporate limits of the City. Such right-of-way may be under the jurisdiction of the City, County, State or Federal governments. For the purpose of these guidelines, the components of the right-of-way that are of concern include, but are not limited to, the sidewalk area of the street as well as overhead and underground utilities whether owned by the City or others.

(2) **Central Business District.** The central business district for the purposes of these regulations is considered to be that area of the City identified as the Downtown District in the Downtown Revitalization and Development Plan, 2010 Update.

(3) **Business activity.** A business activity within the public sidewalk area of the right-of-way which includes the placement of tangible items sold in conjunction with the abutting business.

(4) **Sidewalk fence.** No sidewalk fence or barrier of any type is permitted for any business activity on a public sidewalk.

(5) **Litter.** Litter for the purpose of these guidelines is defined as meaning any a substance found within the right-of-way that is related to the business. Such items include, but are not limited to, discarded food, beverages, plates, wrappers, containers, bottles, cups, paper, cigars or cigarettes and butts.

(6) **Permit.** A permit is defined as being written authorization by the City Manager to conduct the operation of a business activity within the public right-of-way. A permit is only valid between April 1st and November 1st.

(7) Business. A business is considered to be any operation or permitted commercial use by a person, firm, partnership or corporation.

(8) Minor use. Minor use by an adjacent Business refers to the placement of objects in the area immediately adjacent to the Business that enhances or supports the Business, but where the primary purpose is not a permanent or semi-permanent Business Activity. Such minor use may include a planter, flower pot, decoration, seating, but not signage.

(9) Sidewalk sign. A sidewalk sign is a privately-owned temporary sign located on or near the public sidewalk in conformance with these regulations. For the purposes of this Chapter, a sidewalk sign shall be interpreted as a business activity.

(c) Procedures. The following procedures shall apply to requests for permission to operate an outdoor business activity within the public right-of-way in the central business district:

(1) Approval. No business shall operate an outdoor business activity without having first obtained a permit from the office of the City Manager.

(2) Permit requirement.

A. A valid permit is required to operate an outdoor business activity within the public right-of-way located within the central business district of the City. A permit is only valid for the calendar year in which it is issued. The fee charged for such an annual permit shall be twenty-five dollars (\$25.00). A renewal fee of fifteen dollars (\$15.00) will be charged for a subsequent identical application.

B. No permit will be required for outdoor business activity conducted in conjunction with:

1. A Downtown Event for which a Special Permit Application has been issued by the City,
2. Memorial Day Weekend (Saturday, Sunday and Monday),
3. Labor Day Weekend,
4. Independence Day and the associated weekend when Independence Day falls on a Friday, Saturday, Sunday or Monday,
5. Oberlin College Commencement weekend,
6. Or, other special occasions as approved by the City Manager in consultation with Oberlin Main Street Chamber.

(3) Permit application. An application must be filed on an annual basis for a permit to operate an outdoor business activity within the central business district. Such applications are to be completed on the form prescribed by the City and are to be filed with the office of the City Manager. The City Manager shall either approve or deny the application within thirty (30) days of receipt of a complete application. Each application shall be accompanied by a completed Application Form, a sketch which accurately displays all applicable dimensions, shows the size and location of the business, the size and location of all doors or other openings in relation to the building and adjacent sidewalks, curbs and gutters, the width of the all

adjacent sidewalks, the location of such features as sidewalk pavers, fire hydrants, light poles, trash receptacles, benches, flower planters, trees, bus stops, newspaper boxes, curb-cuts, driveways, or any other existing feature that might impact the ability of the business to comply with these guidelines, as well as such other information reasonably deemed necessary by the City Manager to issue a permit.

(4) Permit issuance.

A. No outdoor business activity shall operate unless immediately adjacent to a property with an existing business being operated in accordance with the City's Zoning, Building and Fire Codes. Any outdoor business activity in operation prior to the adoption of these guidelines shall be required to comply with these guidelines.

B. The operation of any outdoor business activity shall be in accordance with the sketch plan approved by the City Manager.

(5) Appeals. Any applicant who has been denied a permit pursuant to these guidelines may, in writing, appeal the denial to the Zoning Board of Appeals within ten (10) days of the date of receipt of the decision denying the permit. The Zoning Board of Appeals shall consider the appeal at its next regularly scheduled meeting. The Board may confirm the decision of the City Manager to deny the application or approve the application if it determines that no significant obstruction to pedestrian travel will result from the proposed activity, and that the proposed outdoor business activity is in substantial compliance with these standards and guidelines. In making this determination, the Board shall consider, among other factors, the scale of the proposed activity, the level of pedestrian traffic on the sidewalk, the configuration of the proposed activity or facility and its relationship to the sidewalk and existing street furniture, bus stops, light poles, etc., and the possible impact on nearby businesses.

(6) Permit fee. Each application will be processed only with payment of a permit fee prescribed (see subsection (c)(2) hereof).

(7) Exceptions. Any applicant who is unable to comply with the design criteria or conditions outlined in subsection (d) hereof, may file an application seeking an exception to those regulations with the Oberlin Planning Commission. That written appeal must be filed within ten (10) days of the decision by the City Manager that the application does not comply with the regulations. The Planning Commission may approve a variance to the regulations if the Commission's findings of fact demonstrate that the exception meets the purpose and intent of the standards or regulations.

(8) Permit fee for exceptions. Any written request for an exception to the standards or regulations is to be accompanied by a fee of fifty dollars (\$50.00).

(9) Multiple applications. Should an application be denied by the City Manager and that denial upheld by the Zoning Board of Appeals or the Planning Commission related to compliance with standards, no further permit application or exception request will be considered or approved within six (6) months of the date of the refusal by the Zoning Board of Appeals or the Planning Commission.

(10) Revocation of permit.

A. In order to enforce the provisions of these guidelines, any business determined not to be in compliance with same shall be issued a written Notice of Violation. Such Notice shall be delivered by hand or sent by certified mail to the business and/or property owner identified on the Application Form.

B. Failure to comply with the written Notice of Violation within twenty-four (24) hours of receipt will result in the revocation of the permit and the authority to operate for a period of seven (7) calendar days from the date of the delivery of a Notice of Revocation. The Notice of Revocation shall be delivered by hand or sent by certified mail to the business and will be effective immediately upon receipt. Any further violation within the same calendar year within which the permit was issued shall result in revocation of the permit for the remainder of that calendar year.

(11) Appeal of loss of privilege. Any business whose permit to operate has been revoked, may appeal that revocation decision to the Zoning Board of Appeals within ten (10) days of receipt of the written notice of revocation. The Zoning Board of Appeals shall consider the circumstances involved with respect to the issuance of the Notice of Revocation and any earlier warnings or Notices of Violation and any mitigating evidence offered by the permit holder, including efforts or assurances that may be provided that would insure compliance with the guidelines. The Board shall have the authority to uphold, overrule or modify the revocation, as long as any such action ensures future compliance with these guidelines.

(12) Penalty.

A. Any person, firm or corporation that violates any of the provisions of this chapter shall, upon conviction thereof in a court of competent jurisdiction, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each violation. Each and every day that a violation continues shall constitute a separate offense, up to a period of one year.

B. In addition, the City may institute a civil action in a court of competent jurisdiction to enjoin any violations of this chapter.

(13) Permission by notification. Minor Use is allowed under the provisions of these guidelines as long as such items do not impede pedestrian safety and upon notification to the Planning and Development Department on the form provided by the Department which shall clearly identify the location of all proposed objects to be placed on the sidewalk for the requested Minor Use. Unless the City Manager or Planning and Development Director revokes the proposed Minor Use in writing, permission shall be deemed granted for the period valid between April 1st and November 1st. A new request form shall be submitted each calendar year.

(d) Conditions and Requirements.

(1) Business establishments located in the Central Business District may locate business activity on a public sidewalk if the business establishment has received a

permit therefor or during the special periods when no permit is required as noted in subsection (c)(2) hereof.

(2) The following guidelines shall apply to the operation of a seasonal outdoor business activity when allowed by permit and during special periods when no permit is required as noted in subsection (c)(2) above:

A. Any outdoor business activity shall be located immediately adjacent to and directly in front of the building housing the business and not extend beyond the limits of the property wherein the applicant business is located;

B. No sidewalk fence or barrier shall be installed or used related to an outdoor business activity.

C. Any materials, goods, etc. shall be placed so as not to present a sight hazard to vehicular traffic or to present a sign hazard to pedestrians.

D. Prior to commencing operation of any outdoor business activity, the applicant must furnish a certificate of insurance to the City Manager which names the City of Oberlin as an additional insured on the applicant's liability insurance policy.

E. No outdoor business activity shall operate in such a manner as to create any obstruction of pedestrian movements on the public sidewalk. A minimum clear width of 7.5 feet is required if the sidewalk is 15 feet or greater, and if the sidewalk width is less than 15 feet, 2/3rds of the sidewalk must remain available for unobstructed pedestrian travel and 1/3 may be utilized for the business activity, exclusive of areas occupied by trees, planters, benches, bike racks, pavers, utility poles or other existing structures.

F. No outdoor business activity shall interfere with the operation of nearby businesses.

G. No amplified music or television, radio or loudspeakers shall be permitted.

(3) Sidewalk signs. Sidewalk signs shall comply with the sidewalk sign regulations contained within Chapter 798. Sidewalk signs shall only be placed subject to a permit issued by the City Manager.

~~(Ord. 10 71AC CMS. Passed 2 22 11.)~~

CHAPTER 798 - DOWNTOWN SIDEWALK SIGNS

798.01 Purpose. The purpose of these regulations is to establish guidelines governing the placement of Sidewalk Signs on the public sidewalks located in front of establishments in the Central Business District in a manner which permits communication while preserving the essential functions of the sidewalks and promoting safety and aesthetic quality in the commercial areas.

798.02 – Definitions

Sidewalk Sign. A Sidewalk Sign is defined as a privately-owned temporary sign located on or near the public sidewalk in conformance with these regulations.

798.03 - Number of Signs.

One (1) Sidewalk Sign shall be permitted for each customer entry in a building wall that is parallel to the public right-of-way.

798.04 - Size of Signs.

- A. The area of each face of a sign shall not exceed six (6) square feet.
- B. No more than two (2) sign faces, placed back-to-back or in an A-frame configuration, shall be permitted on each sign.
- C. The width of each sign face shall not exceed twenty-four inches (24").
- D. The top of each sign shall be not less than thirty-six inches (36") and not more than forty-two inches (42") above the sidewalk.

798.05 - Location of Signs.

- A. Sidewalk Signs shall only be permitted in that part of the C-1 Central Business District bounded by Lorain, Pleasant, Vine and Professor Streets the C-1 Central Business District.
- B. A Sidewalk Sign shall ~~only~~ be located on the sidewalk in front of the building in which the business of the sign owner is located. The sign shall be located as close to the front wall of the building as possible. Sidewalk Signs for buildings that do not abut a public sidewalk may be located on the sidewalk nearest the front of the building location.
- C. A Sidewalk Sign shall not be located in a manner which reduces the open portion of the public sidewalk to less than five feet (5') in all directions from the sign (except the side abutting the building or other objects as approved in the permit). This area shall be clear of all obstructions including but not limited to poles, public signs, street lighting, benches, trees, bicycle racks, trash receptacles, and other Sidewalk Signs.
- D. A Sidewalk Sign shall not be located closer than five feet (5') to the customer entrance door of any building on abutting property and shall not obstruct access to pedestrian street crossings, handicap facilities, or emergency exits. Where a building is located on a street corner, signs shall be located at least five feet (5') from the corner of the building.

798.06 - Times of Display.

- A. Sidewalk signs shall only be displayed during hours when the sign owner's business is open for service to the public but not earlier than 7 a.m. but not later than 9 p.m. on any day.

798.07 - Construction and Maintenance.

- A. Sidewalk signs must be portable and shall not be attached in any manner to the ground, sidewalk, building, pole, bicycle rack, other sign, or any other object or structure.
- B. Sidewalk signs shall be constructed as an A-frame, T-frame, or weighted post. The supporting structure shall be made of wood or metal together and may contain other materials necessary for weighting (such as formed concrete). Bags of sand, concrete and the like shall not be placed upon the frame for weighting. Sign frames and faces shall be sufficiently heavy to ensure that they remain in place in windy conditions. Signs must be maintained in an upright position at all times. Sign owners shall be responsible to immediately remove signs when weather conditions result in sign collapse and when any sidewalk sign is damaged in any manner.
- C. Signs shall not be illuminated.
- D. Signs shall be constructed of weather-resistant materials, professional lettered and neatly painted. Signs shall remain in good condition, repaired and maintained as necessary.
- E. Hand written messages are permitted if messages are drawn in a neat and legible manner on a dark color background. White erasable boards are not permitted.
- F. Sign face background shall not be fluorescent colors or reflective.
- G. Manual change bulletin board signs (i.e., with movable letters) are not permitted.
- H. Moving elements are prohibited on or attached to a Sidewalk Sign, including balloons, streamers and other moving devices. Loose objects, magnetically attached objects, literature racks, and similar removable items are prohibited.
- I. To enable the enforcement of these regulations, Sidewalk Signs shall identify the owner's name, telephone number and the address of the business associated with the sign.

798.08 – Permit Required.

- A. Annual Permit. A permit for a Sidewalk Sign shall only be issued for the current calendar year and must be renewed every year.
- B. Authorized Sidewalk Sign Owner or Applicant. The property owner or the owner of a business located in the subject property may submit an application for a Sidewalk Sign. In either case, the property owner shall sign the permit. Property owner may withdraw authorization for a sign on the owner's property with 15 days written notice to the City.
- C. Liability. The owner of any Sidewalk Sign which is or is proposed to be located wholly or partially on a sidewalk in the public right-of-way shall provide and maintain a hold harmless/indemnification agreement for the City's benefit during the entire period in which the permit for the sign is in effect.
- D. The City of Oberlin reserves the right to remove any sidewalk sign that interferes with vehicular or pedestrian traffic or in the event of an emergency situation or that interferes with any work that is to be performed in the right of way by or on behalf of the City. The removed sign will be returned to the sign owner.
- E. The City reserves the right to revoke the permit for failure to comply with these regulations.
- F. A permit for a Sidewalk Sign shall be approved by the City Manager or designee. The City Manager or designee may impose conditions on the issuance of a permit Sidewalk Sign deemed necessary to protect the public health, safety and welfare.

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(4) Permit issuance.

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B. The operation of any outdoor business activity shall be in accordance with the sketch plan approved by the City Manager.

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(10) Revocation of permit.

A. In order to enforce the provisions of these guidelines, any business determined not to be in compliance with same shall be issued a written Notice of Violation. Such Notice shall be delivered by hand or sent by certified mail to the business and/or property owner identified on the Application Form.

B. Failure to comply with the written Notice of Violation within twenty-four (24) hours of receipt will result in the revocation of the permit and the authority to operate for a period of seven (7) calendar days from the date of the delivery of a Notice of Revocation. The Notice of Revocation shall be delivered by hand or sent by certified mail to the business and will be effective immediately upon receipt. Any further violation within the same calendar year within which the permit was issued shall result in revocation of the permit for the remainder of that calendar year.

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B. No sidewalk fence or barrier shall be installed or used related to an outdoor business activity.

C. Any materials, goods, etc. shall be placed so as not to present a sight hazard to vehicular traffic or to present a sign hazard to pedestrians.

D. Prior to commencing operation of any outdoor business activity, the applicant must furnish a certificate of insurance to the City Manager which names the City of Oberlin as an additional insured on the applicant's liability insurance policy.

E. No outdoor business activity shall operate in such a manner as to create any obstruction of pedestrian movements on the public sidewalk. A minimum clear width of 7.5 feet is required if the sidewalk is 15 feet or greater, and if the sidewalk width is less than 15 feet, 2/3rds of the sidewalk must remain available for unobstructed pedestrian travel and 1/3 may be utilized for the business activity, exclusive of areas occupied by trees, planters, benches, bike racks, pavers, utility poles or other existing structures.

F. No outdoor business activity shall interfere with the operation of nearby businesses.

G. No amplified music or television, radio or loudspeakers shall be permitted.

(3) Sidewalk signs. Sidewalk signs shall comply with the sidewalk sign regulations contained within Chapter 798. Sidewalk signs shall only be placed subject to a permit issued by the City Manager.

~~(Ord. 10-71AC CMS. Passed 2-22-11.)~~