

**CITY OF CHARLEVOIX**  
**TITLE IV - STREETS AND SIDEWALKS**  
**CHAPTER 40**  
**NEWSRACKS, PLANTERS, TABLES, CHAIRS, ETC.\***  
(Ord. No. 515, 07-03-89)

**\*Editor's Note**—Chapter 40 derives from Ord. No. 515, adopted July 3, 1989. Section 4.12, Separability, of the ordinance was omitted as being covered by the provisions of §1.13.

**4.1. Findings and purposes.**

It is found and declared that:

- (1) The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic.
- (2) Reasonable regulation of streets and sidewalks is necessary to protect the public health, safety and welfare.
- (3) The uncontrolled placement of tables and chairs, merchandise and goods, news racks, planters and other articles and objects present an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, and traffic control.
- (4) Tables and chairs, goods and merchandise, news racks, planters and other articles and objects so located as to cause an inconvenience or danger to persons using public rights-of-way constitute public nuisances per se.
- (5) The provisions and prohibitions hereinafter contained are enacted in pursuance of and for the purpose of securing and promoting the public health, safety, and welfare.

**4.2. Definitions.**

For the purposes of this chapter, the following words and phrases shall be defined to include:

*Articles and objects* shall mean any thing or obstruction placed over or upon a street or sidewalk.

*Goods and merchandise* shall mean any items offered for sale to the general public.

*News racks* shall mean any self-service or coin-operated box, container, storage unit, or other dispenser installed, used, or maintained for the display and sale of newspapers or other news periodicals.

*Planters* shall mean any device used or intended to be used for display of nonartificial flowers.

*Sidewalk* shall mean any surface provided for the use of pedestrians.

*Street* shall mean all that area dedicated to the public use for public street purposes and shall include, but not be limited to, roadways, state trunk lines, and alleys.

*Tables and chairs* shall mean facilities provided to customers for food or beverages upon a public sidewalk.

**4.3. License—required.**

It shall be unlawful for any person, firm or corporation to erect, place, maintain, or operate, on any public street or sidewalk or in any other public way or place, within the city limits, except in the areas designated as the CBD, Central Business District, in Chapter 51, zoning and planning, any article, object, or any other obstruction except under the conditions and in the manner presented in this chapter. Provided, however, the city manager or his designee may grant, pursuant to the terms of this chapter, licenses for the erection, placement, maintenance or operation of news racks, tables, chairs, and planters on sidewalks within the area mapped as CBD, Central Business District, in Chapter 51 of this Code.

(Ord. No. 597, §1, 05-04-92)

**4.4. Same—application.**

Applications for such permit [license] shall be made in writing to the city manager upon such form as shall be provided by the city and shall contain the name and address of the applicant; the proposed specific location of the tables and chairs, newsracks or planters; and shall be signed by the applicant.

#### **4.5. Same—conditions.**

(a) *Indemnification, liability.* As an express condition of the acceptance of such license, the licensee thereby agrees to indemnify and save harmless the city, its officers, directors, and employees against any loss or liability or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as a result of the installation, use, or maintenance of tables and chairs, news racks, planters, or goods and merchandise within the city.

(b) *Issuance.* Licenses shall be issued for the installation of news racks, planters, tables and chairs with prior inspection of the location but such news racks, planters, tables and chairs, and the installation, use, or maintenance thereof shall be conditioned upon observance of the provisions of this chapter and upon such reasonable rules and regulations as may be established by the city council, from time to time, by resolution. Licenses shall be issued within two (2) working days after the application has been filed.

(c) *Validity; renewal.* Such licenses shall be valid for one (1) year and shall be renewable pursuant to the procedure for the original applications referred to in section 4.4.

(d) *Violations.* No license shall be issued to an applicant, or any license may be revoked in the event the applicant or licensee is in violation of any of the provisions of the City Code.

#### **4.6. Standards for maintenance and installation.**

Any tables, chairs, planters or news racks which in whole or in part rest upon, in, or over any public sidewalk shall comply with the following standards: Shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, all tables, chairs, planters and news racks shall be serviced and maintained so that:

(1) They are reasonably free of dirt and grease.

(2) They are reasonably free of chipped, faded, peeling and cracked paint in the visual painted areas thereof. The structural parts thereof are not broken or unduly misshapen.

#### **4.7. Location and placement.**

Any news racks, planters, tables and chairs which rest in whole or in part upon, or in, or on any portion of a public sidewalk or right-of-way or which projects onto, into, or over any part of a public sidewalk or right-of-way shall be located in accordance with the provisions of this section:

(1) No tables, chairs, planters, or news racks shall be used or maintained which projects onto, into, or over any part of the roadway or public street, or which rests wholly or in part upon, along, or over any portion of the roadway or any public street.

(2) No tables, chairs, planters, or news racks shall be permitted to rest upon, in or over any public sidewalk, when such installation use, or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such use unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally marked or stopped vehicle, the ingress into or the egress from any residence or place of business, or the use of poles, posts, traffic signs, or signals, hydrants, mailboxes, or other objects permitted at or near such location.

(3) No tables, chairs, planters, or news racks shall be chained, bolted, or otherwise attached to any fixture located in the public right-of-way, except to another news rack, planter, table or chair.

(4) No tables, chairs, planters or news racks shall be placed, installed, used or maintained:

a. Within three (3) feet of any crosswalk.

b. Within eight (8) feet of the back of the street curb. (Ord. No. 545, 05/20/91)

c. Within five (5) feet of any driveway.

d. At any location whereby the clear space for the passage way of pedestrians is reduced to less than six (6) feet.

(5) The city manager may establish, by regulation, the number and location of areas within the city to be used for placement of news racks.

#### **4.8. Placement of goods and merchandise; exception for special events.**

(a) Notwithstanding anything herein contained to the contrary, the city manager may allow the placement of goods and merchandise for retail sales each year for what is commonly referred to as "sidewalk days."

(b) Notwithstanding anything contained herein to the contrary, the city manager may allow the placement of goods for retail sales on a public sidewalk or public street by a nonprofit organization recognized by the Internal Revenue Service as a charitable organization. The organization shall obtain a permit from the city manager which shall specify the location(s) and time period covered by the permit. The permit shall be issued without charge and may not exceed seventy-two (72) hours. The city manager may deny the permit, if there is a reason to believe that the activity to be covered by the permit, its requested location(s) or time interval would interfere with the rights of others to use the public sidewalk or street, interfere with the ability of city employees to carry out their jobs or the right of the public to unobstructed travel along a public street or public sidewalk.

**4.9. Violation of this Section is a municipal civil infraction.**

Upon determination by the city manager that a news rack, planter, table or chair, goods or merchandise, or other article or object has been installed, used, or maintained in violation of the provisions of this chapter, a notice to correct the offending condition will be issued to the owner or operator of such news rack, planter, table or chair, goods or merchandise, or other article or object. The notice shall describe the offending condition, request the action necessary to correct the condition and specify the time within which the offending condition must be corrected. If an offending condition is not properly identified by the owner or operator of the business premises located immediately adjacent to such section of the public street or sidewalk, the offending condition shall be removed immediately and processed as unclaimed property. An offending condition which is located on a public street, sidewalk or other public property shall be deemed a hazardous condition and an interference with the public's right to use such public places and shall be removed. The city manager or his designee may institute such legal proceedings as are necessary to enforce this Chapter.

(Ord. No. 658, 03-06-00)

**4.10. Revocation of license.**

In addition to the enforcement procedures provided in section 4.9 of this chapter, it shall be within the power and discretion of the city manager to suspend or revoke the license of continued or repeated violations or infractions of any provisions of this chapter or any rule or regulation of the city. Suspension or revocation shall be mandatory for the third offense under section 4.9 of this chapter.

**4.11. City manager's designated representative.**

"City manager," as used in this chapter, shall include his or her designated representative.