

St. Louis City Ordinance 62479

FLOOR SUBSTITUTE

BOARD BILL NO. [91] 212

INTRODUCED BY ALDERMAN ALFRED WESSELS, , THOMAS VILLA

An ordinance pertaining to benches and shelters in public rights-of-way; providing for permits, standards for maintenance and installation, location and placement, insurance, revocation of permits, appeals of revocation, regulations, and containing a severability clause and a penalty clause.

WHEREAS, the uncontrolled placement of benches and shelters in public rights-of-way presents 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, traffic control and emergency services, and

WHEREAS, benches and shelters so located as to cause an inconvenience or danger to persons using public rights-of-way, and unsightly benches and shelters located therein, constitute public nuisances, and

WHEREAS, the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, morals, and general welfare of persons in the City of St. Louis in their use of public rights-of-way, and to improve the aesthetic quality of the City.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. For the purpose of this ordinance, the following terms and words shall have the meaning herein given to them:

(a) Distributor shall mean the person responsible for placing and maintaining a bench or shelter in a public right-of-way.

(b) Parkway means that area between the sidewalk and the curb of any street, and where there is no sidewalk that area between the edge of the Roadway and property line adjacent thereto. Parkway shall also include any area within a Roadway that is not open to vehicular travel.

(c) Roadway means that portion of a street improved, designed, or ordinarily used for vehicular travel.

(d) Sidewalk means all that area dedicated to pedestrian public use for public street purposes and shall include, but not be limited to, areas abutting Roadways, Parkways, and alleys.

SECTION TWO. Permit 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 right-of-way or place, in the City of St. Louis any bench or shelter without first having obtained a permit from the Board of Public Service specifying the exact location of such bench(es) or shelter(s). One permit may be issued to include any number of benches or shelter(s).

SECTION THREE. Application for Permit.

Application for such permit shall be made, in writing, to the Director of Streets upon such form as shall be provided by him, and shall contain the name, address and telephone number of the applicant and of the Distributor, the proposed specific location of said benches or shelters, and shall be signed by the applicant. A letter of support from the Alderman of the ward in which the bench or shelter will be located shall accompany the original application; otherwise the application shall not be accepted. This section shall not apply to benches or shelters that have been erected pursuant to a permit issued by the Board of Public Service.

SECTION FOUR. Conditions for Permit.

(a) As an express condition of the acceptance of such permit, the permittee 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 the result of the installation, use or maintenance of a bench or shelter within the City of St. Louis. This section shall not be construed as relieving any person, firm or corporation from obtaining a building permit for construction or erection of any shelter on the public right-of-way.

(b) Insurance. A certificate of insurance covering each person up to \$100,000.00 and each accident up to \$500,000.00 and \$50,000.00 property damage approved by the City Counselor as to form and by the Comptroller as to surety and naming the City of St. Louis as a co-insured shall be filed with the Board of Public Service before the permit is issued. Said certificate of insurance shall be kept in effect during the entire time the bench or shelter is on

the public right-of-way. Such certificate shall be so conditioned as to require thirty (30) days notification before cancellation.

(c) Permits shall be issued for the installation of benches and shelters with inspection which shall take place no later than twenty-one (21) days after application has been filed. A ten (10) dollar inspection fee per bench or shelter shall accompany each permit application.

(d) Such permits shall be valid for three (3) years and shall be renewable pursuant to the procedure for original applications referred to in this ordinance.

(e) Stickers showing the permit number shall be issued by the Board of Public Service with the permit and must be displayed on the back of each bench and shelter at all times.

SECTION FIVE. Standards for Maintenance and Installation.

Any bench or shelter which in whole or in part rests upon, in or over any public Sidewalk or Parkway, shall comply with the following standards:

(a) No new bench, except for replacement of existing benches, shall exceed forty-eight inches (48) inches in height, seventy-two (72) inches in width, or twenty-eight (28) inches in depth.

(b) No shelter shall exceed the height, width and depth approved by the Director of Streets.

(c) Notwithstanding the provisions of any other ordinance, benches or shelters may be used to advertise services or products if such benches are located within F,G,H,J, or K Zoning Districts as defined and described in Title 26 of the Revised Code of the City of St. Louis.

(d) Each bench and shelter 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, each bench and shelter shall be serviced and maintained so that:

1. It is reasonably free of dirt and grease.

2. It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof.

3. It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon.
4. The clear plastic or glass parts thereof, if any, are unbroken and reasonably free of cracks, dents, blemishes and discoloration.
5. The structural parts thereof are not broken or unduly misshapen.
6. It is not painted with fluorescent, day-glow, aircraft visibility or similar paint materials.

SECTION SIX. Location and Placement.

- (a) No bench or shelter shall be used or maintained which projects onto, into, or over any part of the Roadway of any public street, or which rests, wholly or in part upon, along, or over any portion of the Roadway of any public street.
- (b) No bench or shelter shall be chained, bolted, or otherwise attached to any fixture located in the public right-of-way.
- (c) Benches may be placed next to each other, provided that no group of benches shall extend for a distance of more than twelve (12) feet.
- (d) No bench or shelter shall be placed, installed, used or maintained:
 1. Within three (3) feet of any marked crosswalk.
 2. Within twelve (12) feet of the curb rounding of any unmarked crosswalk.
 3. Within five (5) feet of any fire hydrant, fire call box, police call box or other emergency facility.
 4. Within five (5) feet of any driveway.
 5. Outside an area three (3) feet ahead or fifteen (15) feet to the rear of any sign marking a designated bus stop, except for benches that do not advertise services or products.
 6. At any location whereby the clear space for the passageway of pedestrians is reduced to less than six (6) feet.
 7. Within three (3) feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping.

8. Within one hundred (100) feet of any other benches or shelters on the same side of the street in the same block, except as provided in Subsection (C) above.

9. Within any designated historic district or located within three hundred feet (300') of any designated historic district or any improvement, site, street, or right-of-way which is designated a landmark, or any public park or public building as defined in Title 24 of the Revised Code of the City of St. Louis, without the written approval of the Heritage and Urban Design Commissioner.

10. On any handicap access ramp.

(e) No new bench, except for replacement benches, shall be located within the Central Business District bounded by Chouteau Ave. on the south, Jefferson Avenue on the west, Cass Avenue on the north and the Mississippi River on the east.

SECTION SEVEN. Violations.

Upon determination by the Director of Streets that a bench or shelter has been installed, used or maintained in violation of the provisions of this ordinance, or a complaint has been filed by the abutting property owner an order to correct the offending condition or complaint will be issued to the Distributor of the bench or shelter. The Director of Streets, or his delegate, shall notify said Distributor by First Class Mail, with postage prepaid of the location of the bench and the alleged violations and complaints. The order shall specifically describe the offending condition, suggest actions necessary to correct the condition, and inform the Distributor of the right to appeal. Failure to properly correct the offending condition with ten (10) days (excluding Saturdays, Sundays, and legal holidays) after the mailing date of the order; or to appeal the order within ten (10) days after the mailing date; or to keep current with the office of the Director of Streets, the name, address and telephone number of the Distributor; shall result in the offending bench or shelter being summarily removed and processed as unclaimed property. If the offending bench or shelter is not properly permitted under provisions of this ordinance it shall be removed immediately and processed as unclaimed property. An impound fee, which shall be measured by the City's cost and expense of impounding, shall be assessed against each bench or shelter summarily removed. The Director of Streets shall cause inspection to be made of the corrected condition or of a bench or shelter reinstalled after removal under this Section. The Distributor of said bench or shelter shall be charged a (\$10.00) inspection fee for each bench so inspected.

SECTION EIGHT. Appeals.

Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this ordinance by the Director of Streets may appeal and, in the case of an applicant, shall be appraised of his right to appeal to the Board of Public Service. An appeal by an Applicant must be perfected within ten (10) days after the mailing date of notice of any protested decision or action by filing with the office of the Director of Streets a letter of appeal briefly stating therein the basis for such appeal. An appeal by any other aggrieved person or entity must be perfected within thirty (30) days after the erection of a bench or shelter by filing with the office of the Director of Streets a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than thirty (30) days after receipt of the letter of appeal. Appellant and Distributor, if he is not the appellant, shall be given at least five (5) days notice of the time and place of the hearing. The Board of Public Service shall give the appellant, and any other interested party, a reasonable opportunity to be heard, in order to show cause why the determination of the Director of Streets should not be upheld. At the conclusion of the hearing, the Board shall make a final and conclusive decision. This decision shall be immediately appealable to a court of competent jurisdiction.

SECTION NINE. Penalty Clause. Any person, firm, or corporation violating this ordinance, shall upon conviction thereof be fined not less than one dollar or more than five hundred dollars. Each day a violation shall continue shall constitute a separate offense.

SECTION TEN. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
09/27/91	09/27/91	STR	11/20/91	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
11/22/91		12/17/91	12/17/91	12/20/91
ORDINANCE	VETOED		VETO OVR	

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