

**GENERAL PROVISIONS**

Chapter 12.04

**GENERAL PROVISIONS<sup>1</sup>**

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### **12.04.005 Definitions.**

For the purpose of this chapter, the following words shall have these meanings, unless another meaning is specifically provided for herein:

- A. "Curbing." as defined in Chapter 12.30.030.
- B. "Parkway". A portion of the right-of-way (R-O-W) between the edge of the pavement structure or curbing and the lot or parcel adjacent to the R-O-W. The parkway may include sidewalk, driveway, trees, shrubs, seeded and/or sodded lawn areas and utility services.
- C. "Pavement Structure" as defined in Chapter 12.30.030.
- D. "Right-of-Way" as defined in Chapter 12.30.030.
- E. "Sidewalk" as defined in Chapter 12.30.030.
- F. "Sidewalk, Approach Type". A parkway structure intended for pedestrian use usually extending from the curbing or edge of pavement right-of-way. This approach sidewalk is intended primarily for the private convenience of the adjacent lot or parcel.
- G. "Utility" as defined in Chapter 12.30.030.
- H. "Private Plantings". Flowers, ornamental grasses and other ornamental, non-woody vegetation. (Ord. 2012-M-47 § 2; Ord. 2012-M-47 § 1; Ord. 1989-M-47 § 1.)

### **12.04.010 Supervision and enforcement authority.**

All public streets, alleys, sidewalks and other public ways shall be under the supervision of the director of public works. He shall have supervision over all work thereon, and the cleaning thereof, and shall be charged with the enforcement of all ordinance provisions relating to such public places, except traffic ordinances, and is authorized to enforce such ordinances. (Prior code § 12.101.)

### **12.04.020 Construction permit - Required - Application.**

It is unlawful to construct or lay any pavement on any public street, sidewalk, alley or other public way, or to repair the same without having first secured a permit therefor. Applications for such permits shall be made at the office of the director of public works, and shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual construction work. (Prior code § 12.102.)

### **12.04.030 Pavement - Construction specifications generally.**

All streets and sidewalks pavement shall be made in conformity with the specifications and standards as set forth in Ordinance 1960-29. (Prior code § 12.103.)

### **12.04.040 Pavement - Injury prohibited.**

It is unlawful to walk upon or drive any vehicle or animal upon, or injure any newly laid street or alley pavement while the same is guarded by a warning sign or barricade; or to knowingly injure any street, sidewalk or alley pavement. (Prior code § 12.104.)

### **12.04.050 Pavement - Repairs.**

Repair of public street, alley and sidewalk pavement, whether done by the city or the abutting owner, shall be completed under the supervision of the director of public works. (Ord. 1992-M-42 § 1.)

### **12.04.070 Obstruction of public ways prohibited.**

- A. It is unlawful for any firm, corporation, or person to cause, create, maintain, or permit the obstruction of any street, alley, sidewalk, or public way in such a manner that it interferes with the

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free use and access of such public way, except as may be specifically authorized by ordinance or by the director of public works.

- B. Any person or persons who is at any time found standing, walking, or sitting in a public way in such a manner as to prevent the use or access to such public way to other members of the public and who refuses to disburse or clear the public way and leave the area and clear said public way when requested to do so by any member of the police department or by any person annoyed thereby, shall be presumed to be intentionally obstructing said street, alley, sidewalk, or public way.  
(Ord. 1970-M-20: prior code § 12.107.)

### **12.04.071 Snow removal in downtown district.**

- A. Every individual, partnership, association, corporation, or other business entity in charge or control of any building or lot within the downtown district used for office, retail, commercial, or parking purposes fronting or abutting upon a public sidewalk, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away, or cause to be removed and cleared away, all snow and ice along the entire length and width of the sidewalk fronting or abutting upon the office, retail, commercial building or lot. The downtown district henceforth known as “The Downtown Snow and Ice Removal District” as shown on Exhibit A-12.04.071, and as described as follows:

All that part of the City of St. Charles, lying within those portions of Sections 27 and 34, Township 40 North, Range 8 East of the Third Principal Meridian bounded and described as follows: Beginning at the point of intersection of the center line of Cedar Street and the center line of Fourth Street; thence southerly along said center line of said Fourth Street to the Southerly line of Lot 1, extended Westerly, in Block 50 of the Original Town of St. Charles; thence easterly along the southerly line of Lots 1, 2, 3, and 4 extended, in said Block 50, to the center line of Third Street; thence Northerly along the center line of Third Street to the center line of Walnut Street; thence Easterly along the center line of Walnut to a line that is 129 feet east and parallel to the center line of Third Street; thence Southerly along said parallel line to the Northerly line of Lot 6, Block 43, of the Original Town of St. Charles; thence easterly along the Northerly line of Lot 6, 33 feet, to the Northwest corner of Lot 7, in said Block 43; thence southerly along the Westerly line of said Lot 7 extended to the center line of Illinois Street; thence Easterly along the center line of Illinois Street to the center line of Second Street; thence Southerly along the center of Second Street to the center line of Indiana Street; thence Easterly along the center line of Indiana Street to the west bank of the Fox River; thence Northerly along the west bank of the Fox River to the center line of Illinois Street; thence Easterly along the center line of Illinois Street to the intersection of the center line of Illinois Avenue; thence Easterly along the center line of Illinois Avenue to the center line of Second Avenue; thence Northerly along the center line of Second Avenue to the center line of Walnut Avenue; thence Easterly along the center line of Walnut Avenue to the center line of Third Avenue; thence northerly along the center line of Third Avenue to the center of State Avenue; thence Westerly along the center line of State Avenue to the easterly bank of the Fox River; thence Westerly across the Fox River to the intersection of the west bank of the Fox River and the center line of State Street; thence Westerly along the center line of State Street to the Easterly Line of Lot 2 and Lot 6, extended northerly, of Block 47 of the Original Town of St. Charles; thence Southerly along the East Line of said Lot 2 and Lot 6, extended Southerly, to the center line of Cedar Street; thence Westerly along the center line of Cedar Street to the point of beginning, also being the intersection of the center line of Cedar Street and Fourth Street, all in the City of St. Charles, Kane County, Illinois.

Snow and ice shall be removed within 24 hours after the cessation of any fall of snow, sleet, or freezing rains; provided, however, that if snow and ice on a sidewalk has become so hard that it cannot reasonably be removed without damaging the sidewalk, the person or entity charged with its removal under this section shall, within the 24-hour time period, cause a reasonable amount of sand, salt or other abrasive to be placed upon the entire sidewalk in

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order to make pedestrian travel thereon reasonably safe; and as soon thereafter as weather permits, such person or entity shall effect the removal of snow and ice as provided for in this section.

- B. Any individual, partnership, association, corporation or other business entity violating any provision of this section shall be subject to a fine of \$50.00 for each day upon which a violation exists.

(Ord. 2003-M-25 § 1.)

### **12.04.080 Excavations - Barricades required.**

- A. Any person, firm or corporation laying or repairing any pavement on a street, sidewalk or other public place or making an excavation in the same shall maintain suitable barricades to prevent injury of any person or vehicle by reason of the work; such barricades shall be protected by suitable lights at nighttime.
- B. Any defect in any such pavement shall be barricaded to prevent injury; and any person, firm or corporation properly maintaining any opening or excavation in any such place shall guard such opening or excavation while the same remains open, by proper barricades and lights.

(Prior code § 12.108.)

### **12.04.090 Excavation - Disturbing barricades prohibited.**

It is unlawful to disturb or interfere with any barricades or lights lawfully placed to protect or mark any new pavement or excavation or opening in any public street, alley or sidewalk.

(Prior code § 12.109.)

### **12.04.100 Private use of public places restricted.**

It is unlawful for any person, firm or corporation to use any street, sidewalk, walkway, plaza or other public place within the public right of way or within property owned or controlled by the City, as space for the display of goods or merchandise for sale, lease, trade or for free or to write or mark any signs or advertisement on any such place, except as provided in Sections 12.04.101, "Sidewalk Sales," Section 12.04.102, "Outdoor Cafes and Food Carts in Public Places," and 12.04.104, "Sidewalk Signs." (Ord. 2007-M-45 § 1; Ord. 2004-M-8 § 1; Ord. 1999-M-48 § 1; Ord. 1996-M-57 § 1.)

### **12.04.101 Sidewalk Sales.**

The city council may designate one or more days a year at its sole discretion when merchandise may be displayed and sold on the sidewalks of the city. However, display of merchandise for sale, lease, trade or for free, shall be confined to the sidewalks and city parking areas adjacent to business zoned property; and, provided further, that the city may require a liability insurance policy naming the city as an additional insured and an indemnity agreement covering all such businesses displaying and selling merchandise. Such liability policy or policies shall be in an amount and issued by such company or companies as are acceptable to the city council. The provision of this section providing for the display and sale of merchandise on sidewalks and city parking areas shall not be construed as a lease, and any/all sales of merchandise pursuant to the provisions of this section shall be in compliance with all ordinances of the city.

(Ord. 1996-M-57 § 2; Ord. 1983-M-46 § 1; Ord. 1980-M-34 § 1; prior code § 12.110.)

### **12.04.102 Outdoor Cafes and Food Carts in Public Places.**

- A. The City Administrator is authorized to issue Sidewalk Café Permits for the use of public places located in the CBD-1 zoning district (except for public places located in the First Street TIF District, as hereinafter described), for the purpose of serving food and beverages to the public (including, without limitation, the placement of restaurant tables, chairs, food carts, and similar or related equipment), subject to the following conditions:

1. Permits issued hereunder shall be valid from January 1 or the date of permit issuance, whichever is later, through December 31 of the same year. The permit fee for a Sidewalk Café Permit shall be fifty dollars (\$50.00) for each year the permit is obtained.

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2. A Sidewalk Café Permit shall be required prior to placing tables, chairs, umbrellas, enclosure fencing, food carts, or any other equipment on any public sidewalk, or walkway or plaza.
3. Sidewalk Café Permits may be issued only where the equipment is incidental to the operation of a restaurant on private property contiguous to the sidewalk, walkway or plaza.
4. The proposed use shall not unreasonably interfere with pedestrian or vehicular traffic or with access to parked vehicles, and in no event shall the uses permitted by a Sidewalk Café Permit reduce the open portion of any sidewalk or walkway to less than five feet (5') in width. All equipment placed in the public area shall conform with Section 12.04.200 of this Chapter as to corner visibility.
5. Prior to issuance of a permit, the applicant shall furnish a dimensioned plan showing the sidewalk or other public space and all existing public improvements and encroachments such as light posts, benches, planters, trash receptacles, fences, trees and tree grates in the area, bicycle racks and newspaper boxes. The diagram shall also include the location of the curb relative to the building and the proposed location of all café furniture, food carts, and other equipment to be placed on the sidewalk.
6. The consumption and possession of alcoholic beverages in the area for which a Sidewalk Café Permit has been issued shall be prohibited, except as allowed pursuant to Title 5, "Business Licenses and Regulations," Chapter 5.08, "Alcoholic Beverages," Section 5.08.300, "Consumption and Possession of Alcoholic Liquor on Public Property."
7. All applicable County Health Department sanitation requirements shall be followed for outdoor food handling. The permittee shall be responsible for posting the outdoor seating area as to any special Health Department requirements.
8. All public areas encompassed by the Sidewalk Café Permit shall be maintained in a sanitary manner at all times. Food scraps and containers shall be disposed of in appropriate refuse containers on a regular basis during the day by the permittee. Sweeping of refuse or food scraps into tree grates is not permitted.
9. Permittees are responsible for emptying the public trash containers placed by the City if they should become full prior to the next regular pickup time.
10. Permittees shall see that the public areas encompassed by their Sidewalk Café Permit are clean at the end of each business day, so as not to have any food or drink leftovers remaining which would pose an attraction to animals or insects. Each permit holder shall wash, as needed, the public area to remove any food or drink residue that may attract animals and/or create a pedestrian slip hazard.
11. Design and placement of tables and chairs, as well as other equipment, shall comply with applicable requirements of the Americans with Disabilities Act and the Illinois Accessibility Act.
12. No tables, umbrellas, enclosure fencing, or other equipment shall be attached or affixed to the sidewalk, parkway, poles or any other public facilities.
13. The applicant for a Sidewalk Café Permit shall provide at its sole cost and expense and shall maintain in effect during the entire period of the permit, insurance in the following manner:
  - a. Worker's Compensation Insurance in at least the required statutory limits;
  - b. Comprehensive General Liability Insurance, including owner's protective liability insurance and contractual liability insurance covering claims for personal injury and property damage with limits of at least two million (\$2,000,000.00) dollars per occurrence, and two million (\$2,000,000.00) dollars for any single injury; and
  - c. Prior to issuance of a Sidewalk Café permit, the permittee shall provide the City with copies of the certificates of insurance for the required policies for each type of insurance naming the City as an additional insured party.
  - d. The required insurance policies shall each provide that they shall not be changed or cancelled during the life of the Sidewalk Café Permit until 30 days after written notice of such change has been delivered to the City.
14. The permittee shall indemnify, defend, protect, and hold harmless the City, its corporate authorities, officers, employees, agents and volunteers from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, all costs and cleanup

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- actions of any kind, and all costs and expenses incurred in a connection therewith, including but not limited to a reasonable attorney's fees, expert witness fees and costs of defense (collectively, the "Losses") directly or proximately resulting from permittee's acts or omissions, except to the extent that the city is the sole legal cause of said losses. The foregoing notwithstanding, under no circumstances shall the issuance of any permit provided for under the St. Charles Municipal Code, including but not limited to a Sidewalk Café Permit, to the permittee or any other person or entity constitute an act of negligence or willful misconduct. Nothing set forth in the said permit shall be deemed a waiver by the city of any defenses or immunities relating to the permittee or its property, or to any person or entity or their property, that are or would be otherwise available to the city or its corporate authorities, officers, employees, agents and volunteers under the common law of the State of Illinois or the United States of America. The provisions of this section shall survive the expiration or earlier termination of each Sidewalk Café permit, or the renewal thereof.
15. The City may suspend or revoke the Sidewalk Café Permit for any reason including, but not limited to violations of any provision of the St. Charles Municipal Code after providing at least three (3) days written notice, except in an emergency, to a permittee.
- B. The City Administrator is authorized to issue Sidewalk Café Permits for the use of public places located in the First Street TIF District for the purpose of serving food and beverages to the public (including, without limitation, the placement of restaurant tables, chairs, food carts, and similar or related equipment), subject to the conditions outlined above as 2. through 15., as well as the following additional conditions:
1. No tables, chairs umbrellas, enclosure fencing, food carts, or any other equipment in the outdoor café area shall obstruct any access areas for emergency vehicles.
  2. If the outdoor café area is fenced in, the door that provides access to the outdoor café area shall not be a required exit for the building, tenant space or unit.
  3. Permits issued hereunder shall be valid for a term of one hundred (100) days or less and shall be issued for the period of April 15 (or the date of application, whichever is later) through July 23 and/or the period of July 24 (or the date of application, whichever is later) through October 31. The holder of a permit for April 15 through July 23 shall not have any automatic right to the issuance of a permit for the period of July 24 through October 31, but shall have the right to apply for a second permit. If a second permit is applied for within a calendar year, the permit fee for the second permit shall be twenty five dollars (\$25.00).

The First Street TIF District is described as follows: That part of the Northwest Quarter and the Southwest Quarter of Section 27, Township 40 North, Range 8, East of the Third Principal Meridian in the City of St. Charles, Kane County, Illinois described as follows: Beginning at the northeast corner of Block 44 in Original Town of St. Charles, said point also being the intersection of the south right-of-way line of Main Street (Illinois Route 64) and the westerly right-of-way line of 2<sup>nd</sup> Street (Illinois Route 31); thence easterly along said southerly right-of-way line to the west bank of the Fox River; thence southerly along said west bank to the southerly right-of-way line of Indiana Street; thence westerly along said southerly right-of-way line to the easterly right-of-way of 1<sup>st</sup> Street; thence southerly along the easterly right-of-way line of 1<sup>st</sup> Street to the northerly right-of-way line of Prairie Street; thence easterly along said northerly right-of-way line of Prairie Street to the northerly extension of the west line of Lot 5 in the Piano Factory of St. Charles Subdivision; thence southerly along the west line of said Lot 5 and the northerly extension thereof to the most southerly corner of said Lot 5; thence southwesterly along the extension of the southeasterly line of said Lot 5 to the westerly right-of-way line of 2<sup>nd</sup> Street (Illinois Route 31); thence northerly along said westerly right-of-way line of 2<sup>nd</sup> Street to the Point of Beginning. (Ord. 2010-M-68 § 1; Ord. 2007-M-45 § 2; Ord. 2004-M-8 § 2; Ord. 1999-M-48 § 2; Ord. 1996-M-57 § 1.)

### 12.04.103 Pushcart Vendors.

- A. Operation of Pushcarts Prohibited  
It is prohibited and unlawful to operate a Pushcart within the corporate limits of the City of St. Charles without having first obtained a Pushcart Food Vendor License, or in violation of the terms of such License.
- B. License - Application - Limits

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1. Applications for Pushcart Food Vendor Licenses shall be made to the Building and Code Enforcement Division and shall be required prior to placing the pushcart equipment on any walkway or plaza. Licenses issued hereunder shall be valid from January 1 of any given year or the date of License issuance; whichever is later, through December 31 of the same year.
2. The License fee for a Pushcart Vendor License shall be fifty dollars (\$50.00) for each year the License is obtained.
3. Prior to issuance of a License, the applicant shall furnish a dimensioned plan showing the dimensions of the pushcart. The required diagram is to include the relative proposed location of the pushcart within the Identified Vending Locations, provided for in Section 12.04.103G, and other equipment related to the conduct of the pushcart vendor business.
4. The applicant must submit an approved Kane County Health Department Certificate, A Certificate of Insurance, and an Indemnification Agreement at the time of application for a Pushcart Vendor License.
5. In no event shall the number of Licenses issued pursuant to this Chapter exceed three (3) licenses at any given time.
6. In no event shall more than one License be issued to a single vendor, business, or entity.

### C. Definitions

For the purposes of this Chapter, the following terms and phrases shall have the meanings ascribed herein, unless the context otherwise requires.

**“Approved Food and Beverage Items”** shall mean those items authorized to be sold or dispensed from a pushcart or similar contrivance under the regulations of the Kane County Health Department relating to pushcart food units.

**“Person”** shall mean, but not be limited to, any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, employees, agents, and independent contractors of the same.

**“Pushcart”** shall mean any cart that is limited to precooked hot dogs, un-shucked cooked corn, whole fresh fruit, canned beverages, condiments, and prepackaged non-potentially hazardous food.

**“Pushcart Food Vendor”** shall mean any Person that offers to sell or otherwise dispense food or beverages from a Pushcart.

**“Identified Vending Areas”** shall mean the specific geographical area(s) specified in Section 12.04.103.G, herein.

### D. Pushcart Specifications

1. All Pushcarts shall be capable of being pushed by one person and may not be towed or in anyway propelled by an engine or motor.
2. All Pushcarts shall have a frame no greater than three (3) feet wide by five (5) feet long by five (5) feet high.
3. All Pushcarts must have a minimum of two (2) functional rubber tired wheels with a braking mechanism.
4. Pushcarts may be equipped with an umbrella, in which case, the umbrella height shall not exceed eight (8) feet above adjacent grade.
5. No Pushcart shall have attached to it any bell, siren, light, balloon or other inflatable device, horn, loudspeaker or any similar device.
6. No Pushcart shall have a permanent potable water, wastewater, electric connection, or otherwise use an electric extension cord or generator.

### E. Rules of Operation

In addition to any other condition or regulation contained in the City Code or in the statutes of the state, the following conditions and regulations shall be applicable to and shall govern and control the operation of Pushcarts.

1. Pushcarts shall not be operated outside of Identified Vending Areas; said vending areas shall be indicated on the Pushcart Food Vendor’s License. *The specific location and dimensions of*

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- identified vending locations shall be as designated by the City Administrator. No identified vending location shall have dimensions greater than six feet by eight feet.*
2. Pushcart Food Vendors shall operate only between the hours of 6:30 a.m. and 8:00 p.m. The hours of operation shall be extended to 10:00 p.m. during special events and festivals as may be established by the City Code or as determined by the City Administrator.
  3. Pushcarts shall not be stored, parked or left overnight on any street or sidewalk or in any parking space or other property owned or controlled by the City or be located so as to be visible to the public.
  4. Pushcarts shall be cleaned daily and shall be maintained in a clean and healthful condition.
  5. Pushcarts shall not impede, endanger or interfere with pedestrian or vehicular traffic.
  6. At all times, there shall be a minimum clearance of no less than five (5) feet around the pushcart for the passage of pedestrians.
  7. The immediate area around the Pushcart shall be maintained clean of garbage, trash, paper, cups, cans or litter associated with the Pushcart operation. The Pushcart Food Vendor shall be responsible for the proper disposal of waste and trash associated with its operation. In no event shall the Pushcart Food Vendor utilize City trash receptacles, or other City waste disposal containers.
  8. Placement of containers for the collection of waste and trash is prohibited on streets, sidewalks or public places.
  9. No item related to the operation of a Pushcart shall be placed on the street, sidewalk, public place, or anywhere other than in or on the cart other than a chair/stool, provided however, that the Pushcart, chair/stool and the Pushcart Food Vendor shall all be located within the limits of the identified vending location.
  10. Pushcarts shall be attended at all times except in case of an emergency.
  11. No Pushcart Food Vendor may sell or dispense any food item or service to any motor vehicle or any operator or passenger thereof, nor to any person standing in a street or roadway.
  12. No items of any kind, other than Approved Food and Beverage Items shall be sold or displayed from a Pushcart.
  13. The operation of a Pushcart shall not deface, discolor, mar, mark, damage or destroy the public right-of-way. All stains from cooking, wheels, spillage or any other cause shall be removed within forty-eight hours.
- F. Other Requirements
1. The Pushcart shall at all times when in operation comply with all requirements and standards of the Kane County Health Department, and it shall be the obligation of the Pushcart Vendor to maintain a current and valid Kane County Health Certificate during the term of the license issued by the City.
  2. There shall be prominently displayed on the Pushcart at all times when in operation (1) a certificate of insurance coverage meeting the requirements set forth in this Chapter; (2) the Pushcart Food Vendor's License issued by the City; (3) an Illinois Department of Revenue Registration Certificate and (4) the License issued by the Kane County Health Department as required by regulations of the County Health Department.
  3. As a condition to the issuance of a License required herein, each Pushcart Food Vendor shall execute an agreement by which indemnifies and holds the City, its agents, officials and employees harmless from and against any and all claims, damages and actions at law or in equity arising out of or resulting from the Licensed activity.
  4. Discontinuation of operation or relocation during certain activities. The vending business activities conducted by a holder of a Pushcart Food Vendor License shall be discontinued or relocated during festivals, construction or maintenance necessitating the use of the location occupied by the vendor, the vending business activities shall be relocated to another

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- identified vending location, if another such location is available and if not, then such business activities shall be discontinued for the duration of festival, construction or maintenance.
5. Pushcart Food Vendors shall comply with the Illinois Retailer's Occupation Tax Act and the St. Charles Home Rule Municipal Retailer's Occupation Tax Ordinance, as applicable.
  6. Insurance Required; Indemnification. Pushcart Food Vendors shall at all times carry comprehensive general liability and products and completed operations insurance coverage with limits of not less than two million dollars (\$2,000,000.00) per occurrence and in the aggregate. Such insurance shall be issued by a company authorized to do business in Illinois, and shall include endorsements (1) naming the City, its agents, officials and employees as additional insures; and (2) providing that the policy of insurance shall not be cancelled or materially modified unless thirty (30) days' prior written notice is given to the City. Submittal of appropriate evidence of such insurance coverage to the Building & Code Enforcement Division shall be a condition of issuance of a Pushcart Food Vendor's License and such insurance coverage shall remain in effect for the duration of the Pushcart Food Vendor's License. The term of such insurance shall coincide with the term of the Pushcart Food Vendor License.
  7. Assignment of an identified vending location to a Pushcart Food Vendor shall not confer any rights in or to the real property, which is the site of the vending location.
- G. Identified Vending Locations  
The identified vending locations shall correspond to the two (2) downtown locations, as more specifically provided herein.
1. Northeast Quadrant – Freedom Trail from Municipal Center up to Pottawatomie Park property
  2. Southeast Quadrant – Path along the Fox River south of the Illinois St. Bridge to Langum Park
- H. Conflicts  
In the event of a conflict between the requirements of this Chapter and the requirements of the regulations of the Kane County Health Department or any other law, rule or regulation applicable hereto, the stricter requirement shall control.
- I. Violation; Penalty  
Any person violating any provision of this Chapter shall be subject to the penalties set forth in Section 1.08 of the St. Charles Municipal Code.  
(Ord. 2009-Z-12 § 1.)

### **12.04.104 Sidewalk Signs.**

The City Administrator is authorized to issue Sidewalk Sign Permits for the use of public places located in the CBD-1 zoning district, for the purpose of erecting signs that advertise businesses located within the CBD-1 zoning district. The City Administrator may issue two types of Sidewalk Sign Permits: 1) Annual Sidewalk Sign Permits; and 2) Construction Sidewalk Sign Permits, subject to the following conditions:

- A. Conditions applicable to all Sidewalk Sign Permits:
1. A Sidewalk Sign Permit shall be required prior to placing any sign on any public sidewalk, walkway or plaza. The City hereby reserves the right to limit the number of Sidewalk Sign Permits issued to ensure the proper flow of pedestrian and vehicular traffic, and otherwise to protect the public health, safety and welfare. In that event, permit applications shall be processed and accepted on a first come, first served, basis.
  2. The sign shall not be attached or affixed to the sidewalk, parkway, pole or any other public facility.
  3. The sign shall not unreasonably interfere with pedestrian or vehicular traffic or with access to parked vehicles, and in no event shall the sidewalk sign reduce the open portion of any sidewalk to less than five feet (5') in width. The location and height of the sign shall conform with section 12.04.200 of this chapter as to corner visibility.

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4. The applicant for a Sidewalk Sign Permit shall provide, at its sole cost and expense, and shall thereafter maintain in effect during the entire period of the permit, insurance in the following manner:
    - a. Worker's Compensation Insurance in at least the required statutory limits;
    - b. Comprehensive General Liability Insurance, including owner's protective liability insurance and contractual liability insurance covering claims for personal injury and property damage with limits of at least two million (\$2,000,000.00) dollars per occurrence, and two million (\$2,000,000.00) dollars for any single injury, and
    - c. Prior to issuance of a Sidewalk Sign Permit, the applicant shall provide the City with copies of the certificates of insurance for the required policies for each type of insurance naming the City as an additional insured party.
    - d. The required insurance policies shall each provide that they shall not be changed or cancelled during the life of the sidewalk Café Permit until 30 days after written notice of such change has been delivered to the City.
  5. The permittee shall indemnify, defend, protect, and hold harmless the City, its corporate authorities, officers, employees, agents and volunteers from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments remedial actions of any kind, all costs and cleanup actions of any kind, and all costs and expenses incurred in a connection therewith, including but not limited to reasonable attorney's fees, expert witness fees and costs of defense (collectively, the "Losses") directly or proximately resulting from permittee's acts or omissions, except to the extent that the City is the sole legal cause of said losses. The foregoing notwithstanding, under no circumstances shall the issuance of any permit provided for under the St. Charles Municipal Code, including but not limited to a Sidewalk Sign Permit, to the permittee or any other person or entity constitute an act of negligence or willful misconduct. Nothing set forth in the said permit shall be deemed a waiver by the city of any defenses or immunities relating to the permittee or its property, or to any person or entity or their property, that are or would be otherwise available to the City or its corporate authorities, officers, employees, agents, and volunteers under the provisions of the Illinois Local Government and Governmental Employees Tort Immunity Act, or that are otherwise available to local governments and their corporate authorities, officers, employees, agents and volunteers under the common law of the State of Illinois or the United States of America. The provisions of this section shall survive the expiration or earlier termination of each Sidewalk Sign Permit, or the renewal thereof.
  6. The City may suspend or revoke the Sidewalk Sign Permit for any reason including, but not limited to violations of any provision of the St. Charles Municipal Code after providing at least three (3) days written notice, except in an emergency, to a permittee."
- B. Conditions applicable to Annual Sidewalk sign Permits:
1. Annual Sidewalk sign Permits issued hereunder shall be valid from January 1 or the date of permit issuance, whichever is later, through December 31 of the same year. The permit fee for an Annual Sidewalk Sign Permit shall be thirty dollars (\$30.00) for each year the permit is obtained.
  2. Annual Sidewalk Sign Permits may be issued only where the sign is incidental to the operation of a business on private property contiguous to the sidewalk, walkway or plaza. Only one Annual Sidewalk Sign Permit shall be issued for each business establishment, except that public service signs (i.e., signs indicating the curb location of valet parking or Health Department requirements for sidewalk cafes) may be permitted in addition to the one sign per business.
- C. Conditions applicable to Construction Sidewalk Sign Permits:
1. From time to time the Director of Public Works shall designate certain areas of the CBD-1 Zoning District as "construction zones". Any area so designated shall be adjacent to a business or businesses. Said designation shall automatically expire upon the completion of construction activities. Within a designated construction zone, a Construction Sidewalk Sign Permit may be issued, regardless of whether an Annual Sidewalk Sign Permit has previously been issued. Signs permitted by a Construction Sidewalk Sign Permit may be located

## GENERAL PROVISIONS

- anywhere within the CBD-1 Zoning District, subject to the review and approval of the Director of Community Development in accordance with, but not limited to, all of the conditions of Subsections A and C of this Section 12.04.104. No more than one Construction Sidewalk Sign Permit may be issued for each business. Businesses may combine their advertising with up to four (4) businesses listed on each sign, and any one business may be listed on up to four (4) signs, but in no event shall the total number of Construction Sidewalk Sign Permits exceed one for each business.
2. Construction Sidewalk Sign Permits issued hereunder shall be valid for the duration of the Construction Zone designation. There shall be no permit fee for Construction Sidewalk Sign Permits.

(Ord. 2007-M-61 § 1; Ord. 2007-M-45 § 3; Ord. 2004-M-8 § 3; Ord. 1999-M-48 § 3.)

### **12.04.110 Encroachments prohibited.**

It is unlawful to erect or maintain any building or structure which encroaches upon any public street or property or to erect, install or maintain any sign in or on any public street or other public way, except as authorized by other ordinances.

(Prior code § 12.111.)

### **12.04.115 Encroachments - Route 38.**

#### A. Definitions

1. **Roadway Right of Way** - Those areas existing or acquired by dedication or by fee simple for highway purposes; also, the areas acquired by temporary easement during the time the easement is in effect;
2. **Project Right of Way** - Those areas within the project right of way lines established by the State which will be free of encroachments except as herein defined;
3. **Encroachment** - Any building, fence, sign, or any other structure or object of any kind with the exception of utilities and public road signs, which is placed, located, or maintained in, on, under, or over any portion of the project right of way of the roadway right of way where no project right of way line has been established;
4. **Permissible Encroachment** - Any existing awning, marquee, advertising sign, or similar overhanging structure supported from a building immediately adjacent to the limits of the platted street where there is a sidewalk extending to the building line and which does not impair the free and safe flow of traffic on the highway; the permissive retention of overhanging signs is not to be construed as being applicable to those signs supported from poles constructed outside the project right of way line and not confined by adjacent buildings;
5. **Construction Easement Area** - That area lying between the project right of way limits and the platted street limits which will permit the State to enter to perform all necessary construction operations.

B. It shall be unlawful for any person, firm, or corporation to erect or cause to be erected, any ENCROACHMENT (hereinabove defined) within the limits of the project right of way or roadway right of way where no project right of way lines have been established.

C. Project right of way lines have been established along Illinois Route 38 from Easterly corporate limit (generally referred to as 14th Street/Bricher Road) to Randall Road.

(Ord. 1995-M-20 § 1.)

### **12.04.120 Drains - Obstruction prohibited.**

It is unlawful to obstruct any drain in any public street or alley.

(Prior code § 12.112.)

### **12.04.130 Poles and wires - Permission required for erection or maintenance.**

It is unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without first having secured permission from the city council.

(Prior code § 12.113.)

## GENERAL PROVISIONS

### **12.04.135 Underground Sprinkling Systems - Permission Required for Installation and Maintenance in Public Right-of-Way**

It is unlawful to construct or install an underground sprinkling system or maintain an underground sprinkling system in any public place, street, alley or other public right-of-way without first having secured a permit agreement and building, right-of-way, and plumbing permits from the city. The permit agreement shall be executed by the Building Commissioner on behalf of the city. It is the owner's sole responsibility to maintain and repair the underground sprinkler system. The owner shall indemnify the city from any and all liability for damages or injury arising from the installation, operation, maintenance, or location of the underground sprinkling system. Applications for an underground sprinkling system to be installed in public right-of-way shall have a permit agreement and covenant attached, prepared by the applicant (adjacent property owner) and reviewed and approved by the Building Department, stating that he has read the requirements for an underground sprinkling system located in the right-of-way and that he agrees to comply with them and that he does for himself, his heirs, successors and assigns indemnify and hold harmless the city from any liability asserted by others in connection with the installation, operation, maintenance, or location of the underground sprinkling system and that they permit the removal of any underground sprinkling system by the city if the underground sprinkling system interferes with municipal use, access, or other rights. The covenant may be recorded at the applicant's expense by the city in the County Recorder's Office. In the event city shall determine it necessary to excavate or have access across the area with the underground sprinkling system, the applicant shall remove the underground sprinkler system at city's direction and in the event of the failure thereof, the city may remove the same at owner's expense. The city shall not be required to replace the same pursuant to removal of underground sprinkling system in any event. The form of the permit agreement and covenant shall be approved by the City Council.

(Ord. 1997-M-48 § 1.)

### **12.04.140 Gas pumps - Erection or maintenance on street or sidewalk prohibited.**

It is unlawful to maintain or erect any gasoline pump or tank in any public street, alley or sidewalk. (Prior code § 12.114.)

### **12.04.150 Openings or stairway - Permit required - Cover or railing required.**

- A. It is unlawful to construct or maintain any opening or stairway in any public street or alley or sidewalk or other public place without a permit from the city council.
- B. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing, with the approval of the director or public works.

(Prior code § 12.115.)

### **12.04.160 Electric or barbed wire fences prohibited.**

It is unlawful to maintain or construct any fence composed in whole or part of barbed wire, or with any similar materials, designed to cause injury to person, or any wire charged with electrical current, anywhere within the city except to protect industrial property in which case barbed wire must be at least six feet above the sidewalk and extend inward of the property.

(Prior code § 12.116.)

### **12.04.170 Deposit on streets.**

- A. It shall be unlawful to deposit on any street any material which may make said street slippery including but not limited to leaves and grass or which may be harmful to the pavement or storm drain thereof, or any waste material, or any glass, or other articles which may do injury to any person, animal or property.
- B. Where no other place is available, materials may be deposited in the street preparatory to delivery or use, with the permission of the public works services manager, and notice to the city Police Department; provided, that such deposit does not reduce the usable width of the roadway at the point to less than eighteen feet; and provided, that such material, other than material to be used in actual building construction, shall not be permitted to remain on such street for more than three hours. Any such material shall be guarded by such lights and barricades as the public works services manager shall deem necessary.

## GENERAL PROVISIONS

- C. It shall be unlawful to remove any snow or ice from any private property and deposit the same upon any public street or alley or any part thereof.
  - D. It shall be unlawful to operate any vehicle on any street, alley or other improved roadway when condition of said vehicle is such that soil, clay, mud, stone, gravel or other material drops or falls from the tires or any other part of said vehicle.
  - E. The city may, at its election, remove any materials deposited or dropped on any street, alley or other improved roadway within the city in violation of this section, and may charge the cost of said removal to the person responsible for said violation. In addition to the operator of the offending vehicle, both the owner of the vehicle and the owner of the property from which the offending vehicle has proceeded shall be considered responsible for said violation. Muddy tire tracks or other deposit trails leading from a parcel of property shall be considered prima facie evidence of violation of this section by the owner of said property. Even if the city removes said material and charges for said removal, the violator shall not be deemed to have avoided the violation of this section and shall remain liable for the fine provided for violation of this section in addition to the removal charge.
- (Ord. 1989-M-80 § 1; Prior code § 12.117.)

### **12.04.175 Spills from vehicles.**

- A. No vehicle shall be so loaded that any part of its load spills or drops onto any street, alley or other improved roadway within the city.
- B. No vehicle shall be operated on any street, alley or other improved roadway within the city, when the condition of said vehicle is such that soil, clay, mud, stone, gravel or other material drops or falls from the tires or any other part of said vehicle.
- C. The driver or operator or person in charge or control of any vehicle propelled or moved upon any street, alley or other improved roadway within the city, from any part of which vehicle there has or is being dropped, expelled, ejected or detached upon or to said improved street, alley, or roadway, any soil, clay, mud, stone, gravel, concrete, concrete mix, wood, ashes, glass, or any kind of waste or refuse material, shall take or cause to be taken, all steps required to immediately remove such material from said improved street, alley or roadway.

(Ord. 1989-M-80 § 1.)

### **12.04.180 Deposit on sidewalks.**

- A. It is unlawful to deposit on any public sidewalk any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.
- B. Merchandise or other articles may be deposited on sidewalks preparatory to delivery; provided, that the usable width of the sidewalk is not thereby reduced to less than four feet; and, provided, that no such article shall remain on such walk for more than one-half hour.

(Prior code § 12.118.)

### **12.04.185 Snow removal.**

It shall be unlawful for any person, firm or corporation to shovel, plow or remove snow from any private property or sidewalk and deposit the same on any public sidewalk or street within the City.

(Ord. 1988-M-31 § 1.)

### **12.04.190 Burning leaves and rubbish.**

It is unlawful for any person, firm or corporation to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the city.

(Prior code § 12.119.)

### **12.04.200 Obstructing view at corners prohibited - Penalty for violation.**

- A. It is unlawful to construct, or maintain or permit to remain any fence or other structure, or any bushes, or other plants, on the corner lot within twenty feet of the corner formed by the intersection of any two street lines, which obstructs the view, at a height of more than thirty inches above the elevation of the center of the street intersection.

## GENERAL PROVISIONS

- B. Any person, firm or corporation violating any provision of this section shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which such obstruction to view is permitted to remain after notice from the police department or any official of the city to remove the same.

(Prior code § 12.121.)

### **12.04.210 Public way designated.**

- A. The pedestrian and motor vehicle entrances and exits located at the municipal parking plaza at the southeast corner of Second Street and West Main Street are declared to be public ways, except those portions specifically designated for the parking of motor vehicles.
- B. All vehicles using said municipal parking plaza are subject to the rules for parking and operating a motor vehicle in and out of said lot as set out in the municipal ordinances of the city.

(Ord. 1970-M-19 §§ 1, 2.)

### **12.04.215 Acts which constitute violations on bridges and on public property north of Main Street bridge.**

It is unlawful for any person to do, or engage in or participate in any of the following acts or things from or while upon any part of any public bridge, including the approaches thereto, or any city property adjacent to the Fox River along the easterly bank of the Fox River from Main Street, north to the first railroad trestle, within the city:

- A. Fish or otherwise engage or participate in the act of fishing in any manner whatsoever;
- B. Throw, cast, swing or otherwise propel or suspend therefrom any string, rope, line, pole, rod, stick or other similar object or thing for any purpose whatsoever, except in case of a bona fide emergency for the purpose of saving or preserving life or property, or both.

(Ord. 1981-M-31 § 1.)

### **12.04.217 Parkway maintenance responsibility.**

- A. It is the responsibility of the owner of the lot or parcel adjacent to the parkway to mow the lawn areas of the parkway. The height of such grass lawn areas shall be governed by Chapter 8.28.020. If the owner does not maintain the grass lawn area to the height requirements, the nuisance will be handled in accordance with Chapter 8.28.
- B. Exceptions to the responsibility defined in 12.04.217A are described in the "Lawn Maintenance Agreement" which is annually executed by the City of St. Charles with the St. Charles Park District.
- C. It is the responsibility of the owner of the lot or parcel privately served by a sidewalk, approach type, to maintain and repair such sidewalk, approach type.

(Ord. 1989-M-47 § 1.)

### **12.04.218 Mailbox installation and placement.**

Deleted in its entirety.

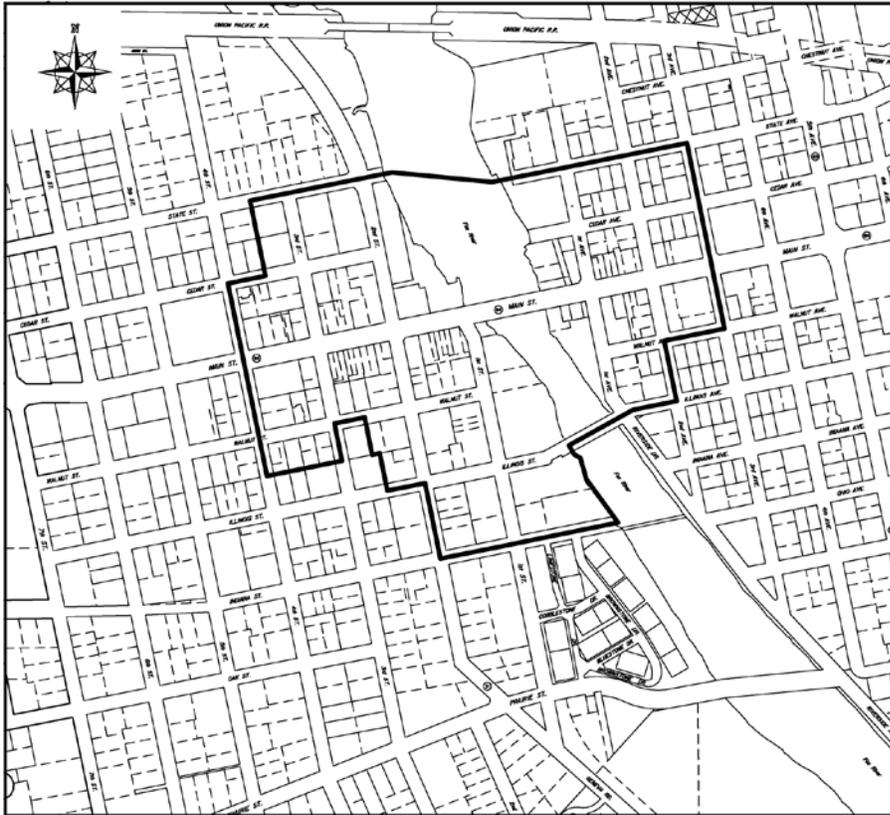
(Ord. 2013-M-14 § 1; Ord. 1993-M-19 § 1)

### **12.04.220 Violation - Penalty.**

Any person, firm or corporation violating any provision of this chapter, except Section 12.04.210, shall be fined not less than one dollar nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Prior code § 12.120.)

**GENERAL PROVISIONS**



**The Downtown Snow & Ice Removal District**

———— INTENDED BOUNDARY

EXHIBIT A-12.04.071

<b>CITY OF ST. CHARLES</b>				
<b>ENGINEERING DEPARTMENT</b>				
Downtown Snow & Ice Removal				
DATE	MADE			
DESIGN BY	CHDS BY			
	APP BY			
DATE	FILE NAME	S02TALC.DWG		
REVISION NO.	REVISION DATE	REVISED BY		

**CITY OF ST. CHARLES**

DRAWING NO. 1C of 32

(Ord. 2003-M-25 § 1.)