

**City of St. Charles, Illinois**

**Ordinance No. 2007-M-45**

**An Ordinance Amending Chapter 12.04 of Title 12,  
"Streets, Sidewalks and Public Places," of the St.  
Charles Municipal Code (Outdoor Cafes, Food Carts,  
and Sidewalk Signs)**

**Adopted by the  
City Council  
of the  
City of St. Charles  
May 7, 2007**

**Published in pamphlet form by  
authority of the City Council  
of the City of St. Charles,  
Kane and Du Page Counties,  
Illinois, May 11, 2007**

*Nancy Garrison*  
\_\_\_\_\_  
City Clerk



DATE OF PUBLICATION 5/11/07  
NEWSPAPER Sample

REPORT TO  
COMPLETED 5/7/07  
PAGE \_\_\_\_\_

ORDINANCE NO. 2007-M- 45

PRESENTED AND PASSED BY THE  
CITY COUNCIL ON May 7, 2007

**AN ORDINANCE AMENDING CHAPTER 12.04 OF TITLE 12,  
"STREETS, SIDEWALKS AND PUBLIC PLACES",  
OF THE ST. CHARLES MUNICIPAL CODE  
(Outdoor Cafes, Food Carts, and Sidewalk Signs)**

**BE IT ORDAINED** by the City Council of the City of St. Charles, Kane and DuPage  
Counties, Illinois, as follows:

**SECTION 1.** That Section 12.04.100 entitled "Private use of public places restricted" of  
Title 12, "Streets, Sidewalks and Public Places", of the St. Charles Municipal Code be and is hereby  
amended by deleting Section 12.04.100 in its entirety and by substituting the following therefor:

**"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".

**SECTION 2.** That Section 12.04.102 entitled "Outdoor Cafes in Public Places" of Title 12,  
"Streets, Sidewalks and Public Places", of the St. Charles Municipal Code be and is hereby  
amended by deleting Section 12.04.102 in its entirety and by substituting the following therefor:

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

The City Administrator is authorized to issue Sidewalk Café Permits, for the use of  
public places located in the CBD-1 Zoning District, for the purpose of serving food and/or

nonalcoholic drink to the public (including, without limitation, the placement of restaurant tables, chairs, food carts, and similar or related equipment), subject to the following conditions:

- A. 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. 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.
- B. 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.
- C. 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.
- D. 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.
- E. The permittee shall prohibit the consumption and possession of alcoholic beverages in the area for which a Sidewalk Café Permit has been issued as required by Title 5, "Business Licenses and Regulations," Chapter 5.08, "Alcoholic Beverages," Section 5.08.390, "Consumption and Possession of

Alcoholic Liquor on Public Property."

- F. 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.
- G. 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.
- H. 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.
- I. 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.
- J. 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.
- K. No tables, umbrellas, enclosure fencing, or other equipment shall be attached or affixed to the sidewalk, parkway, poles or any other public facilities.
- L. 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:
  - 1) Worker's Compensation Insurance in at least the required statutory limits;
  - 2) 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

- 3) 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.
  - 4) The required insurance policies shall each provide that they shall not be changed or cancelled during the life of the Sidewalk Café Permit until thirty (30) days after written notice of such change has been delivered to the City.
- M. 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 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 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 Cafe permit, or the

renewal thereof.

- N. 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. ”

**SECTION 3.** That Title 12, "Streets, Sidewalks and Public Places", of the St. Charles Municipal Code be and is hereby amended by deleting Section 12.04.104 in its entirety and by substituting the following therefor:

**“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.

- 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 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 sixty (60) days from the date of permit issuance and can be renewed if space is available and the proposed sign otherwise complies with the requirements of the St. Charles Municipal Code. There shall be no permit fee for Construction Sidewalk Sign Permits.

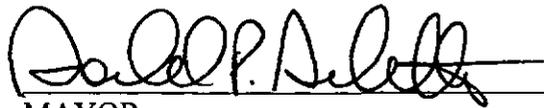
**SECTION 4.** That after the adoption and approval hereof this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the Council, or (ii) within

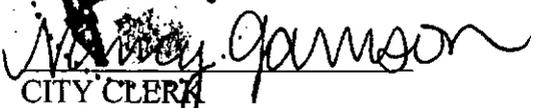
thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

**PRESENTED** to the City Council of the City of St. Charles, Illinois, this 7 day of May, 2007.

**PASSED** by the City Council of the City of St. Charles, Illinois, this 7 day of May, 2007.

**APPROVED** by the Mayor of the City of St. Charles, Illinois, this 7 day of May, 2007.

  
MAYOR

  
ATTEST:  
  
CITY CLERK

COUNCIL VOTE:

- AYES: 10
- NAYS: 0
- ABSENT:
- ABSTAIN:

State of Illinois )  
 )  
 ) ss.  
Counties of Kane and DuPage )

## Certificate

I, NANCY GARRISON, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

I further certify that on May 7, 2007, the Corporate Authorities of such municipality passed and approved Ordinance No. 2007-M-45, entitled

"An Ordinance Amending Chapter 12.04 of Title 12,  
"Streets, Sidewalks and Public Places," of the St.  
Charles Municipal Code (Outdoor Cafes, Food Carts,  
and Sidewalk Signs),"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2007-M-45, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on May 11, 2007, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 7 day of May 2007.

  
\_\_\_\_\_  
Municipal Clerk

