

ORDINANCE #485H
AN ORDINANCE AMENDING SECTION 98-12
OF THE CITY OF BELVIDERE MUNICIPAL CODE

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Belvidere as follows:

SECTION 1: Section 98-12, of the City of Belvidere Municipal Code is hereby amended to read as set forth in the attached Exhibit A which is incorporated herein by this reference.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as required by law which publication is hereby authorized.

Voting Aye: Arevalo, Brereton, Frank, Porter, Ratcliffe, Snow and Stevens.

Voting Nay: None.

Absent: Crawford, Freeman and McGee.

APPROVED:



Mayor Michael W. Chamberlain

ATTEST:



City Clerk Sarah Turnipseed

(SEAL)

Passed: March 16, 2020

Approved: March 18, 2020

Published: March 18, 2020

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Sec. 98-12. - Private use of streets and sidewalks.

- (a) Except as provided herein, it shall be unlawful for any person to use any street, sidewalk or other public place, as space for the display of goods or merchandise for sale, or to write or mark any signs or advertisements on any such pavements. It is also unlawful to block or obstruct any portion of any street or sidewalk or other public place except as set forth herein or as permitted by this Code.
- (1) *Directional signs.* Directional signs for "qualified charitable organizations" as defined by the Internal Revenue Code may be placed on the terrace of the right-of-way on city streets at the expense of said organization. All signs shall be of such size, shape, and placement as proscribed by state department of transportation and the city public works/street department rules, regulations, and guidelines. Signs shall be maintained in reasonable condition. Faded, discolored, rusted, or damaged signs shall be replaced or removed at owner's expense within 90 days of notice by director of public works of the city.
- (2) *Sidewalk vending or sales.* The sale of goods and the display of goods is permitted in the CB central district only on portions of the sidewalk immediately adjacent to the structure housing the business displaying or offering for sale the goods. The display or sale of goods shall only be permitted after receiving a vending permit as set forth herein and pursuant to the terms of this section and the issued permit. The display or sale of goods is also subject to regulation by other portions of this Code, including but not limited to the zoning ordinance (chapter 150) and may be prohibited in certain areas where prohibited by other sections of this Code. The following regulations shall apply for the display and/or sale of goods on city sidewalks in the CB zoning district:
- a. Applicants for vending permits shall submit on the appropriate forms, an application to the city clerk. Each application shall state: Name and address of applicant, permit and space desired, period of time, hours of operation, goods or services for sale, a description or photo of any cart, booth, structure, table, chairs or other equipment and a drawing to scale of their location, and any electrical or other services desired. All applications must be accompanied by proof of issuance of all necessary building, health or other required permits or licenses and the application fee of \$75.00 annually.
 - b. All carts or booths and other structures or equipment shall conform to the following requirements and restrictions:
 1. Meet all applicable city, state and federal regulations.
 2. Benefit the public or enhance the ambiance of the downtown.
 3. Be maintained in a high-quality state of repair.
 4. *Size requirements.* Vending activities shall not extend more than half the width of the sidewalk, and must not block or impede pedestrian traffic along the sidewalk, or ingress and egress to the business it fronts, or neighboring businesses. Vendors may not extend beyond the width of the face of the business it fronts.
 - c. Vending activities must be manned by a minimum of one responsible individual over the age of 15 at all times. If a minor is running the vending, a legally responsible adult associated with the business must be within the business building during operation of the vending activities.
 - d. Vendors must be an extension of the existing business fronting the sidewalk space they are occupying.
 - e. During the course of business, no call out, cry, or by use of any device make any noise to call attention to the sale of any goods, wares, merchandise or service whatsoever, or in any manner obstruct or interfere with the orderly flow of pedestrian traffic. No music or other noisy distractions shall be allowed.

- f. Vendor must provide adequate garbage cans for disposal of any trash, and must maintain the area within and in proximity to any cart, structure or location in a neat, clean and hazard-free condition.
 - g. Vendors must supply the city with appropriate certificate of insurance for operation covering the activity of the vendor. Vendor shall indemnify and hold harmless the city from and against any and all loss, cost, damages or expenses to persons or property, including property of the city, arising out of or claimed to have arisen out of such use. Furthermore, all users shall defend, at no cost to the city, any such claims or suits, provided that the city may, in its sole option, join in the defense of such claim or suit without relieving the user from any of its promises or obligations.
 - h. Vendors must comply with all existing restrictions of the county health department.
 - i. Vendors shall cooperate with inspection of the premises, goods, or articles at any reasonable hour by the authorized agent, officer or employee of the city or its designate.
 - j. Vendors must ascertain and at all times comply with all laws, ordinances and regulations, and all state statutes, applicable to such permitted business or premises, including but not limited to all building, zoning, fire, health and labor regulations.
 - k. Vendor must post and maintain any and all permits delivered for use in a conspicuous place.
 - l. Vendors may operate between the hours of 7:00 a.m. and 8:00 p.m. daily. Vendor permits shall be valid for the period of April 1, through November 1 annually.
 - m. Vendor shall remove any cart, booth, structure, furniture or equipment from the sidewalk area at the close of business for the day. No cart, booth, structure, furniture or equipment shall be permitted to remain on the public sidewalk overnight. All carts, booths, structures, furniture or equipment shall be of a type and maintained so as to enhance the aesthetic and overall appearance of the downtown. The city reserves the right to determine the acceptability of carts, booths, structures, furniture or equipment for use on public sidewalks.
- (3) *Sidewalk Cafés.* A Sidewalk Café is an outdoor area located on the sidewalk portion of the public right-of-way and which is maintained and operated by an establishment, coffeehouse, teashop or restaurant for purposes of providing seating for patrons for the consumption of food or beverages. Sidewalk cafés shall be permitted in the CB zoning district only after receiving a permit as set forth herein and pursuant to the terms of this section and the issued permit. Sidewalk Cafés may also subject to regulation by other portions of this Code, including but not limited to the zoning ordinance (chapter 150) and may be prohibited in certain areas where prohibited by other sections of this Code. The following regulations shall apply to sidewalk cafés in the CB zoning district:
- a. Applicants for Sidewalk Café permits shall submit on the appropriate forms an application to the city clerk. Each application shall state: Name and address of applicant, permit and space desired, period of time, hours of operation, a description or photo of any cart, booth, structure, table, chairs or other equipment and a drawing to scale of their location, and any electrical or other services desired. All applications must be accompanied by proof of issuance of all necessary building, health or other required permits or licenses and the application fee of \$75.00 annually.
 - b. All carts or booths and other structures or equipment shall conform to the following requirements and restrictions:
 - 1. Meet all applicable city, state and federal regulations.
 - 2. Benefit the public or enhance the ambiance of the downtown.
 - 3. Be maintained in a high-quality state of repair.

4. *Size requirements.* Activities shall not extend more than half the width of the sidewalk, and must not block or impede pedestrian traffic along the sidewalk, or ingress and egress to the business it fronts, or neighboring businesses. A Sidewalk Café may not extend beyond the width of the face of the business it fronts. A minimum pedestrian width of four feet shall be maintained at all times.
 5. The city reserves the right to deny any request for a Sidewalk Café permit if it reasonably determines that there is insufficient sidewalk space to accommodate the request either due to the actual width of the sidewalk, volume of pedestrian traffic in the area, or the condition of the sidewalk.
 6. All Sidewalk Cafés shall meet the Sidewalk Café design guidelines which were adopted contemporaneously with this section in Ordinance Number 983G.
 7. Sidewalk Cafés shall be temporary in nature capable of being disassembled and securely stored on the premises of the establishment operating the café within ten minutes.
- c. Sidewalk Cafés shall be manned by a minimum of one responsible individual over the age of 18 at all times. The individual may also be employed within the establishment but shall also maintain vigilant supervision over the sidewalk café.
 - d. Sidewalk Cafés must be an extension of the existing business fronting the sidewalk space they are occupying.
 - e. During the course of business, no call out, cry, or by use of any device make any noise to call attention to the sale of any goods, wares, merchandise or service whatsoever, or in any manner obstruct or interfere with the orderly flow of pedestrian traffic. No music or other noisy distractions shall be allowed.
 - f. Sidewalk Café operators must provide adequate garbage cans for disposal of any trash, and must maintain the area within and in proximity to any cart, structure or location in a neat, clean and hazard-free condition.
 - g. An establishment operating a Sidewalk Café shall supply the city with a certificate of insurance, reasonably acceptable to the city, covering the activity of the operator. The certificate of insurance shall name the city as an additional insured and shall be primary to any insurance carried by the city. The operator of a Sidewalk Café shall indemnify, defend and hold harmless the city from and against any and all loss, cost, damages or expenses to persons or property, including property of the city, arising out of or claimed to have arisen out of such use. Furthermore, all users shall defend, at no cost to the city, any such claims or suits, provided that the city may, in its sole option, join in the defense of such claim or suit without relieving the user from any of its promises or obligations.
 - h. Sidewalk Cafés must comply with all existing restrictions of the county health department.
 - i. Sidewalk Café operators shall cooperate with inspection of the premises, goods, or articles at any reasonable hour by the authorized agent, officer or employee of the city or its designate.
 - j. Sidewalk Cafés must ascertain and at all times comply with all laws, ordinances and regulations, and all state statutes, applicable to such permitted business or premises, including but not limited to all building, zoning, fire, health and labor regulations.
 - k. Sidewalk Cafés must post and maintain any and all permits delivered for use in a conspicuous place.
 - l. Sidewalk Cafés may operate between the hours of 7:00 a.m. and 9:00 p.m. daily. Vendor permits shall be valid for the period of April 1, through November 1 annually.
 - m. Sidewalk Café operators shall remove any cart, booth, structure, furniture or equipment from the sidewalk area at the close of business for the day. No cart, booth, structure, furniture or equipment shall be permitted to remain on the public sidewalk overnight. All

carts, booths, structures, furniture or equipment shall be of a type and maintained so as to enhance the aesthetic and overall appearance of the downtown. The city reserves the right to determine the acceptability of carts, booths, structures, furniture or equipment for use on public sidewalks.

- n. Sidewalk Café operators shall not serve alcoholic beverages unless the underlying establishment has appropriate valid liquor licenses issued by the State of Illinois and the City allowing consumption of alcohol on premises and have received specific authority to serve alcoholic beverages as a part of their Sidewalk Café permit. When applying for a Sidewalk Café Permit the applicant shall specifically state whether they are seeking permission to serve alcoholic beverages. The following regulations, in addition to all other requirements, shall apply to all Sidewalk Cafés serving alcohol:

1. The applicant shall provide proof of liquor liability (dram shop) insurance with the application for a Sidewalk Café Permit with the request to serve alcohol.

2. The Sidewalk Café Permittee has an affirmative duty to prohibit any patron from leaving the Sidewalk Café premises with any alcoholic liquor, except a package properly sealed, bagged and receipted pursuant to Section 633 of the Illinois Liquor Control Act.

3. Alcohol served or consumed within a Sidewalk Café premises shall only be served or consumed in a plastic cup clearly identifying the retail establishment from which the alcohol was purchased.

4. A Sidewalk Café may only allow consumption of alcohol if the underlying establishment derives at least 50% of its gross profit from the sale of food for consumption on the premises. Further, alcohol may only be served as a companion to the sale of food for consumption in the Sidewalk Café.

4. Bring your own alcohol (BYOB) is not permitted within a Sidewalk Café premises.

5. The City may require, as a condition of allowing a Sidewalk Café, that the retail establishment engage in a beautification program requiring decorative fencing, decorative railings, decorative plantings, flower boxes etc. as a part of the City's objective of fostering aesthetically pleasing streets and boulevards.

6. Any Sidewalk Café with specific permission to serve alcoholic beverages shall enclose the permitted area from the remainder of the public way, and be maintained in accordance with a plan reasonably approved by the City. The boundary shall be no less than 24 inches or more than 36 inches in height. The boundary shall be durable so that it shall not collapse or fall over due to wind or incidental contact with patrons or pedestrians. The boundary may have movable sections to aid in public access to seating as long as the boundary complies with the submitted plan. The boundary shall be maintained in place during operating hours. No boundary may be stabilized by bolting to the sidewalk. The boundary shall be designed to leave at least four (4) feet of clear and unobstructed sidewalk space to allow for pedestrian passage. Clearance between Sidewalk Café and all public way encumbrances shall also be at least 6 feet. Non-permissible enclosure of City property, within the boundaries of the Sidewalk Café, shall include, but is not limited to, parking meters, fire hydrants, and utility or signal control boxes. These types of items can be identified as items which must be accessible to the public or to the City for emergency services.

- o. The Sidewalk Café shall be operated in conformance with the approved plan of operation submitted with the application. Any change in operation or location other than de minimis modifications requires the prior approval of the City.

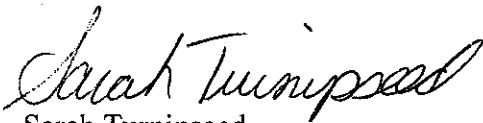
- (b) Whoever violates any provision of this article for which no penalty is otherwise provided, shall be subject to punishment as provided in section 1-9. A separate offense shall be deemed committed on each day that a violation occurs or continues. The permits granted in this section shall be subject to the provisions of chapter 26, sections 26-31 et seq. regarding licensing regulations and discipline except as modified herein.

AFFIDVAIT

STATE OF ILLINOIS)
)
COUNTY OF BOONE)

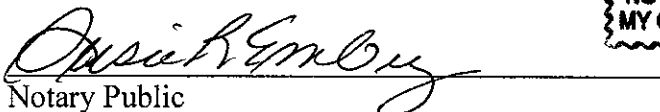
Sarah Turnipseed, first being duly sworn on oath deposes and says as follows:

By authority of the City Council of the City of Belvidere, Illinois, I published Ordinance #485H of the City of Belvidere, Illinois, in pamphlet form on March 18, 2020, and as a convenience for the public; I posted the pamphlet form of Ordinance #485H on the bulletin board outside the City Clerk's office at 401 Whitney Blvd., Belvidere, Illinois; said location being readily accessible to the public during business hours of the City Clerk's Office.



Sarah Turnipseed
City Clerk

SUBSCRIBED AND SWORN TO BEFORE ME
this 18th day of March, 2020.



Notary Public