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JUN 10 2010

ORDINANCE NO. 4207

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING SECTION 46-4, DIVISION II, CHAPTER 46, CODE OF THE CITY OF CHANDLER; RELATING TO ENCROACHMENT PERMITS FOR SIDEWALK FURNITURE.

BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

SECTION 1. Section 46-4.1, Division II, Chapter 46, Chandler City Code, is hereby amended to read as follows:

46-4.1. *Criteria for sidewalk furniture encroachment permit – Class 2.* Sidewalk furniture in the central downtown area and areas within special area plans adopted pursuant to Chapter 35 (Zoning Code) that expressly promote pedestrian activity in the right-of-way is allowed due to the unique characteristics of ~~that~~ those neighborhoods, to aid in the revitalization of those areas by encouraging pedestrian activity along the street, to encourage economic development ~~in the downtown area~~ and because of the constraints caused by the older style of development. The intent of these standards and requirements is to insure safe access and movement for pedestrians and motorists alike, and to insure uniform placement, aesthetics, and maintenance, while protecting City liability when such items are placed within public right-of-way.

SECTION 2. Section 46-4.2/B, Division II, Chapter 46, Chandler City Code, is hereby amended to read as follows:

B. Permits for sidewalk furniture may only be granted for sidewalks adjoining property located in the historic downtown square or within the boundaries of a special area plan adopted by city council pursuant to Chapter 35 (Zoning Code) that expressly encourages sidewalk furniture to promote or maintain pedestrian activity in the public right-of-way, classified as City Center District (CCD), provided however, bus shelters and bicycle racks and lockers may be granted in all ~~zones~~ areas.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4207 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, and that a quorum was present thereat.

\_\_\_\_\_  
CITY CLERK

Approved as to form:

\_\_\_\_\_  
CITY ATTORNEY *GAB*

Published:

CHANDLER CITY CODE SECTION 35-3203, ARTICLE XXXII. CITY CENTER DISTRICT (CCD)

**35-3203. Uses requiring use permit approval.**

The following uses shall require approval of a use permit by City Council, upon recommendation by the Planning and Zoning Commission, subject to the review and approval criteria set forth in Section 35-305 of the Zoning Code:

A. Public assembly such as meeting halls, lodges, conference facilities, theaters, cinemas, auditoriums, places of worship, and schools.

B. Commercial recreation such as health clubs, gyms, fitness centers, racquet clubs, teen clubs, youth centers, bowling alleys, billiards, ice skating, rock-climbing, and amusement arcades.

C. Live entertainment such as concerts, stage plays, live music, karaoke, dance halls, nightclubs.

→ D. Sales or production of beer, wine, or spirituous liquors, whether offered for on-site or off-site consumption, including brewpubs and microbreweries. Any extension of such premises to serve or consume liquor outdoors on the sidewalk within an adjoining public street right-of-way shall be subject to the following requirements. Unless otherwise modified by the City, no portion of a public right-of-way devoted to use as an alley, parking lane or parking space(s), loading zone, bus stop, or moving lane of traffic, shall be considered eligible for such consideration:

1. Such extension of premises shall be contiguous and accessory to the building in which food or spirituous beverages are sold or served, and all services to the extension of premises shall originate from such building.

2. The area of the sidewalk within the public street right-of-way in which spirituous beverages are to be served shall be completely enclosed by a wrought iron fence measuring forty-two (42) inches in height from sidewalk grade, that cannot be removed, relocated, or otherwise altered by a patron or passerby. At least one (1) side of the enclosure shall consist of the exterior wall and door entry of the serving establishment, and such enclosure shall be continuous except for gates as may be necessary or required for pedestrian access. All gates as may be provided shall be self-latching and self-closing.

3. A minimum six-foot clearance shall be maintained between the fence enclosure required in subsection 35-3203.D.2 herein, and the inside face of any column, street light, street sign, traffic signal pole, curb line, utility equipment box, or other street fixture, to allow unobstructed pedestrian use of the remaining public sidewalk. In cases where a right-of-way is being reconstructed or otherwise modified by City approval, said minimum clearance may be reduced to five (5) feet. Compliance with the applicable provisions of the Americans with Disabilities Act (ADA) shall be maintained

at all times within the adjoining public street right-of-way outside of the fence enclosure.

4. Site plan details including but not necessarily limited to such items as vehicular parking; signage; colors and materials of all elements to be placed in the right-of-way; the location, style, and construction method for the wrought iron fence enclosure required in subsection 3203.D.2 above; and any requirements as may be necessary to insure compatibility with adjoining buildings and uses, whether public or private, shall be addressed as part of the Use Permit approval process in accordance with the requirements set forth in Section 35-305(1) of the City Code. Issues pertaining to light, noise, music, live entertainment, amusement devices, hours of operation, and any other characteristics related to the particular application being considered shall be addressed as part of the Use Permit process and stipulated as necessary.

5. The operator of the extended premises shall be responsible for maintaining the affected area of the sidewalk right-of-way, both within and immediately outside the fence enclosure, in a clean and orderly manner, free of any and all litter as may otherwise be generated from the serving area.

6. In the event that Use Permit approval is granted by the Mayor and Council to allow an extension of liquor premises into the street right-of-way, the operator shall then be required to obtain a Class 2 encroachment permit in accordance with the requirements of Chapter 46-4 of the City Code. The method of constructing the wrought iron fence enclosure as required in subsection 35-3203.D.2. above, and the means of restoring the affected right-of-way to its previous condition at such time as the extension of premises ceases operation, shall also be subject to review and approval in obtaining the encroachment permit.