

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2012

COUNCIL BILL NO. 12-0072
COMMITTEE OF REFERENCE:
Land Use, Transportation and
Infrastructure

A BILL

For an ordinance amending Division 3 (Benches Bearing Advertising) of Article XIV, (Temporary Occupancy of the Right-of-Way), of Chapter 49 (Streets Sidewalks, Public Ways), of the Denver Revised Municipal Code.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Division 3 (Benches Bearing Advertising), of Article XIV (Temporary Occupancy of Public Right-of-Way) of Chapter 49 (Streets, Sidewalks, Public Ways), Denver Revised Municipal Code, shall be and is hereby amended by adding the language underlined and deleting the language stricken below to read and be read as follows:

DIVISION 3. BENCHES BEARING ADVERTISING-TRANSIT AMENITIES PROGRAM

Sec. 49-486. Eligibility.

The manager of public works may issue to any person a revocable ~~annual~~ permit to occupy the public right-of-way outside of the roadway for up to five years for the purpose of placing individual bus benches, kiosks or shelters bearing advertising at bus stops; however, the manager shall not issue more than one (1) permit for the placement of more than ~~one (1) bus bench bearing advertising~~, one (1) kiosk or one (1) shelter at a bus stop to the same individual, company, or another company owned, operated or controlled by the holder of a permit.

Sec. 49-487. Prohibitions and revocation.

(a) Placing benches, kiosks or bus shelters bearing advertising on the public right-of-way is prohibited:

- (1) At any location which is not a bus stop;
- (2) At any location where the manager determines that benches, kiosks or shelters may interfere with the safe and convenient passage of pedestrians, or interfere with ~~and~~ access to or use of traffic-control devices or other street furniture;
- (3) Where the city or a district has provided a bench, leaning rail, shelter where seating is provided, or within a landscaped area;
- (4) Within the boundaries of the Denver International Airport;
- (5) In parks and along designated parkways, ~~or in the public right-of-way adjacent to a park.~~

1 (b) It shall be the sole responsibility of the permittee to assure that all benches, kiosks and
2 shelters are placed on the public right-of-way and not on private property.

3 (c) No more than two (2) benches and one (1) kiosk or one (1) shelter shall be placed at a bus
4 stop location; provided, however, that:

5 (1) No ~~benches bearing advertising~~, shelters bearing advertising or kiosks shall be placed
6 adjacent to local streets in residential zone districts; and

7 (2) No more than one (1) bench or shelter shall be allowed per bus stop on collector and arterial
8 streets in residential zone districts.

9 (d) A permittee's failure to place a bench, kiosk or shelter at a location for which the permittee
10 has a permit, for at least ninety (90) consecutive days during the permitted period authorized by
11 this division, may result in the forfeiture of the permit.

12 (e) A permittee's failure to comply with the terms of this division or regulations adopted by the
13 manager pursuant to section 49-461, may result in the revocation of the permit authorized by this
14 division.

15 **Sec. 49-488.** Maintenance, repair and removal.

16 The permittee shall maintain all benches, kiosks and shelters in a safe, clean and neat condition
17 at all times. Damaged or defaced benches, kiosks or shelters shall be repaired or replaced
18 immediately upon notification or discovery of such condition by the permittee or the city. At a
19 minimum, benches, kiosks and areas surrounding the benches and kiosks shall be inspected,
20 cleaned, and any necessary repairs shall be made at least once a month, or whenever notified
21 by the manager that a bench or kiosk needs cleaning or repair, whichever is sooner. At a
22 minimum, shelters and areas surrounding the shelters shall be inspected, cleaned, and any
23 necessary repairs shall be made at least once a week, or whenever notified by the manager that
24 a shelter needs cleaning or repair, whichever is sooner. Snow shall be removed from benches
25 and shelters and the area necessary to access them within 24 hours of the end of a snow storm.

26 **Sec. 49-489.** Permits.

27 (a) Permits issued in accordance with this division are ~~annual~~ revocable permits which are not
28 intended and shall not be construed as creating in the permittee any vested right, title or interest
29 in the permit. Permits may be revoked without cause by the manager of public works upon fifteen
30 (15) days written notification to the permittee.

31 (b) When the city orders the removal of a bench or benches, kiosk or kiosks, or shelter or
32 shelters, such removal shall be accomplished within thirty (30) days after the transmittal of such
33 request by certified or registered mail, return receipt requested. Failure to effect such removal

1 within the thirty (30) day time limit may result in removal of the bench or benches, kiosk or kiosks
2 or shelter or shelters, by the city and a fee of five hundred dollars (\$500.00) per kiosk or bench,
3 or one thousand dollars (\$1000.00) per shelter, plus the cost of removal and storage of said
4 benches, kiosks or shelters. The fee must be paid prior to retrieval of the bench, kiosk or shelter,
5 and no permit or renewal permit shall be issued until such fee is remitted.

6 (c) Permits for kiosks, shelters and city standard benches may be issued at any time during the
7 calendar year, upon application and payment in full of the required fees. No permit or renewal of
8 a permit shall be issued unless the permittee has remitted all the required fees.

9 ~~(d) Permits for bus benches bearing advertising shall expire on December 31 of each year.
10 Permits may be renewed effective January first of each year upon approval of an application for
11 renewal submitted by the permittee. Renewal permits issued in accordance with this division are
12 annual revocable permits. Applications for renewal shall be submitted to the transportation
13 division of the department of public works no later than the first business day of December of
14 each year, or as per rules and regulations promulgated by the manager of public works.
15 Permittee's failure to submit a renewal application by the first business day of December of each
16 year or as per rules and regulations promulgated by the manager of public works shall result in
17 the forfeiture of the ability to renew a permit except as otherwise provided by this division.~~

18 ~~(e)~~ Kiosk, and shelter permits issued in accordance with this division shall expire on August 1st
19 of each the applicable year. Renewal permits issued in accordance with this division are annual
20 revocable permits. Applications for renewal shall be submitted to the ~~transportation division of~~
21 ~~the~~ department of public works no later than the first business day of July of each the applicable
22 year, or as per rules and regulations promulgated by the manager of public works. Permittee's
23 failure to submit a renewal application by the first business day of July of each the year the
24 permit is scheduled to expire or as per rules and regulations promulgated by the manager of
25 public works shall result in the forfeiture of the ability to renew a permit except as otherwise
26 provided by this division.

27 ~~(fe)~~ No new or renewal permit authorized by this division shall be issued unless the applicant
28 has demonstrated compliance with the insurance requirements set forth in section 49-463.

29 ~~(gf)~~ Permits issued pursuant to this division shall not be assigned to any other person,
30 partnership, association or corporation without the express written approval of the city or as per
31 rules and regulations promulgated by the manager of public works.

32 ~~(hg)~~ Placing a bench, kiosk or shelter in the public right-of-way without a permit, maintaining a
33 bench, kiosk or shelter after revocation of a permit, or violation of the bus bench, kiosk or shelter

1 prohibitions and limitations contained herein is unlawful. Conviction of a violation of this division
2 or any rule or regulation adopted shall be subject to the penalties set forth in section 1-13,
3 D.R.M.C.

4 ~~(i) No new permits for bus benches bearing advertising shall be granted after March 1st, 2001,~~
5 ~~and renewals of existing bus benches bearing advertising shall be governed by rules and~~
6 ~~regulations promulgated by the manager of public works.~~

7 **Sec. 49-490.** Fees for benches, kiosks and shelters.

8 ~~Notwithstanding the provisions of Ordinance No. 104, Series of 1981, and the document filed in~~
9 ~~the office of the clerk and recorder, ex officio clerk of the city, on the 9th day of March, 1981,~~
10 ~~Filing No. 98262 A, which is referred to in Ordinance No. 104, Series of 1981, t~~The fees for
11 application for bus benches, kiosks and shelters shall be set by rules and regulations
12 promulgated by the manager of public works. The manager of public works may require the
13 installation of additional shelters or city standard benches for each kiosk or shelter with
14 advertising permitted.

15 COMMITTEE APPROVAL DATE: 1/24/2012.

16 MAYOR-COUNCIL DATE: 1/31/2012.

17 PASSED BY THE COUNCIL _____ 2012

18 _____ - PRESIDENT

19 APPROVED: _____ - MAYOR _____ 2012

20 ATTEST: _____ - CLERK AND RECORDER,
21 EX-OFFICIO CLERK OF THE
22 CITY AND COUNTY OF DENVER
23

24 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2012; _____ 2012

25 PREPARED BY: Kerry A. Buckey, Assistant City Attorney 10/26/2011

26 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
27 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
28 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
29 § 3.2.6 of the Charter.
30

31 Douglas R. Friednash, City Attorney

32 BY: _____, _____ City Attorney Date _____