


MEMORANDUM

May 14, 2012

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator 
Vernon J. Gerth, ACA - Community and Economic Development

SUBJECT: Consideration of Ordinance 2012-26 an ordinance to amend Title 16 of the City of Franklin Municipal Code by creating Chapter 7 relating to the display of merchandise, decorative fixtures, and sandwich board signs on the public sidewalk within the HPO.

Purpose

The purpose of this memorandum is to present information to the Board of Mayor and Aldermen (BOMA) to consider an ordinance amendment allowing merchants within the Downtown Historic Preservation Overlay (HPO) to place Decorative Fixtures, Merchandise Displays, and Sandwich Board Signs on the public sidewalk under certain conditions.

Background

During the March BOMA work session, Downtown Franklin Association (DFA) Executive Director Nancy Williams and several merchants representing the DFA requested consideration in developing an ordinance that provides clarity and authorization for merchants to place private decorative fixtures, merchandise displays, and sandwich board signs on the public sidewalk within defined areas in Franklin's Historic Downtown.

In 2004, the Board of Mayor and Alderman approved Ordinance 2004-60 allowing for outdoor cafes on the public sidewalk. The ordinance includes operating standards, liability insurance requirements, annual permitting, and penalties for violations. Since 2004, the business owners have generally adhered to standards set forth in the ordinance. The cafes appear to be a popular amenity and complement the historic character of the downtown neighborhood.

With the exception of a 1996 resolution that allows sandwich board signs in the historic overlay district and during special events, Section 16-101 of the City of Franklin's Municipal Code does not allow for the display of decorative fixtures, merchandise, or other signage on the public sidewalk. Staff and Alderman Blanton met with several merchants to consider the opportunities and challenges associated with allowing this narrowly-defined group of private items to be placed on the sidewalk while maintaining safe access and passage for pedestrians. Subsequently, a couple of residents expressed concern that the proposed ordinance would infringe on pedestrian's use of the public sidewalks, particularly by people who possess mobility and physical challenges. Besides insuring that a minimum of four (4) feet of clear space is maintained between any fixed or temporary display, fixture, sign, or other obstruction, the proposed ordinance prescribes specific areas where merchandise and decorative fixtures are allowed including limiting the total display area to 50% of the of the frontage of properties.



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Financial Impact

Outdoor cafes are charged an initial application and permit fee of \$120 and subsequent annual permit fees of \$75. The annual revenue received from Outdoor Cafes is approximately \$600.

The proposal, as outlined, would require business owners who use merchandise displays and sandwich board signs that advertise or promote their a business to secure an annual fifty (\$50) dollar permit and submit a Certificate of Liability Insurance. The City would not require a permit from businesses that only display non-promotional decorative fixtures (i.e. flower pots, ornaments, etc.).

Building and Neighborhood Services Department employees presently receive the annual permits and certificates of insurance for Outdoor Cafes and periodically monitor compliance.

Recommendation

Approval of the proposed Ordinance 2012-26 as drafted is recommended.

ORDINANCE 2012-26

TO BE ENTITLED: "AN ORDINANCE TO AMEND TITLE 16 OF THE CITY OF FRANKLIN MUNICIPAL CODE BY CREATING CHAPTER 7 RELATING TO THE DISPLAY OF MERCHANDISE, DECORATIVE FIXTURES, AND SANDWICH BOARD SIGNS ON THE PUBLIC SIDEWALK WITHIN FRANKLIN'S HISTORIC PRESERVATION OVERLAY."

WHEREAS, City of Franklin merchants whose businesses are located within the City's Historic Preservation Overlay have requested consideration to display merchandise, decorative fixtures, and sandwich board signs on the public sidewalk and immediately adjacent to their places of business; and

WHEREAS, the City of Franklin Board of Mayor and Aldermen in 2004 approved Ordinance 2004-60 authorizing business owners, under certain conditions, to provide seating for customers on the public sidewalk for serving food and beverages outdoors; and

WHEREAS, it has been determined the Outdoor Cafe ordinance approved by the Board of Mayor and Aldermen in 2004 provides sufficient controls and assurances necessary to allow for the reasonable, but limited use of the public sidewalk while maintaining pedestrian access, historic character, and charm of the City's Historic Preservation Overlay; and

WHEREAS, the Board of Mayor and Aldermen in realizing that maintaining pedestrian access, historic character, and charm of the City's Historic Preservation Overlay is paramount, with similar controls as afforded to Outdoor Cafes, has determined allowing businesses to display merchandise, decorative fixtures, and sandwich board signs on the public sidewalk, under certain conditions, will maintain pedestrian accessibility and complement the existing historic district environment.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that Title 16, Chapter 7 of the Franklin Municipal Code shall be created to read as follows:

Title 16 - Chapter 7

Outdoor Merchandise Displays, Private Decorative Fixtures, and Sandwich Board Signs

Sec. 16-701. - Purpose

Sec. 16-702. - Definitions

Sec. 16-703. - Zoning District Allowed

Sec. 16-704. - Physical Location Requirements and Pedestrian Clearance

Sec. 16-705. - Duration of Displays

Sec. 16-706. - Permit and Certificate of Insurance Required

Sec. 16-707. - Penalties

Sec. 16-701. - Purpose

The purpose of this Chapter is to provide for the appropriate location and design of Outdoor Merchandise Displays, Private Decorative Fixtures, and Sandwich Board Signs on the public sidewalk within the City's Historic Preservation Overlay to complement its unique, historic character, and charm while mitigating any adverse impacts such displays or fixtures may have on pedestrians and adjacent property.

Sec. 16-702. - Definitions

- (1) Merchandise – Shall include products, goods, and wares available for purchase from the adjacent business where the products, goods, and wares are displayed.
- (2) Merchandise Display Fixtures – Shall include tables, racks, cases, and shelving used to display merchandise.
- (3) Private Decorative (not for sale/non-advertising) Fixtures – Shall include and be limited to flower pots, plants, baskets, benches, decorative flags/banners, non-flashing/moving string lighting, and similar ornaments/statues.
- (4) Easel-type Signs - A three leg self-supporting frame for displaying charts, promotional materials, announcements, schedules, and menus.
- (5) Approved Sandwich Board Signs – Consist of a pair of advertisement boards connected at the top by straps or hinge designed to be free-standing with no face greater than 4.5 square feet in area and the total height of the sign four (4) feet or less. Has obtained a valid Certificate of Appropriateness approved by the City’s Preservation Planner in conjunction with the permitting application process.
- (6) Freestanding ornaments/statues (non-advertisement and limited to four (4) feet or less in height) - An accessory, non-advertising article used to complement the character of the City’s Historic Preservation Overlay.
- (7) Flags/Banners (non-advertisement and not exceeding 4.5 square feet per face) – A piece of cloth or pliable material not exceeding 4.5. feet in area usually attached on its edge(s) to a staff or cord, and used as the symbol of a nation, state, community, or art.
- (8) City Square – The outer open area or monument plaza that exists within the intersection of Main Street and Third Avenue South in the City of Franklin, Tennessee.
- (9) Carts – Small wheeled wagon capable of being pushed or pulled by hand and used for the display of merchandise.
10. Guided Tours – A pre-arranged walking or riding tour of place(s) facilitated by a person or persons who have familiarity and knowledge of the place(s).

Sec. 16-703. - Zoning District Allowed

- (1) Outdoor Merchandise Displays, Private Decorative Fixtures, and Sandwich Board Signs shall be limited to the public sidewalk area immediately in front of the merchant’s/property owner’s place of business and within the parameters as described in this Chapter for those businesses whose primary entrance directly front or directly face a public right-of-way within the City of Franklin’s Historic Overlay District.
- (2) All Outdoor Merchandise Displays, Private Decorative Fixtures, and Sandwich Board Signs shall directly relate to the adjacent merchant’s property/place of business. The advertisement or promotion of off-site businesses or products not available from the adjacent business is prohibited.

Sec. 16-704. - Physical Location Requirements and Pedestrian Clearance

- (1) Except as provided, Outdoor Merchandise Displays, Private Decorative Fixtures, and approved Sandwich Board Signs may be placed immediately adjacent to and extend no further than thirty-six (36) inches from the face of the building on the public sidewalk or thirty-six (36) inches from the edge of the public sidewalk beginning at the point where the public sidewalk and private property meet provided a minimum of four (4) feet is maintained between any fixed or temporary display, merchandise, fixture, sign, or other obstruction for unobstructed pedestrian access and movement.

- (2) Outdoor Merchandise Displays and Private Decorative Fixtures shall not exceed fifty (50) percent of the lineal footage of the front property line.

Exceptions:

- (a) Provided no parallel parking spaces exist on the adjacent street, Approved Sandwich Board Signs and Carts may be placed within the area beginning at the face of the curb extending toward the building no further than thirty-six (36) inches provided a minimum of four (4) feet is maintained between any fixed or temporary display, fixture, sign, or obstruction. Generally this is the area within the tree line that is improved with brick pavers.
- (b) As an alternative of placing Approved Sandwich Board Signs and Private Decorative Fixtures immediately adjacent to the building, Approved Sandwich Board Signs and Private Decorative Fixtures may be placed within the area beginning at the face of the curb extending toward the building no further than thirty-six (36) inches provided a minimum of four (4) feet is maintained between any fixed or temporary display, fixture, sign, or obstruction. Generally this is the area in the tree line improved with brick pavers.
- (c) Outdoor Merchandise Displays, Private Decorative Fixtures, and Sandwich Board Signs shall not be placed over an engraved paver.
- (d) As an alternative of placing Approved Sandwich Board Signs immediately adjacent to the building as described above, Approved Sandwich Board signs and flower carts may be placed within the public area located around the outer, parameter of the City Square provided a minimum of six (6) feet is provide between the building and any other obstruction but no closer to the street than the bollards. All Merchandise Displays, Private Decorative Fixtures, Sandwich Board Signs, and other fixtures and signage are strictly prohibited within the inner “square”.

Sec. 16-705. - Duration of Displays

- (1) Outdoor Merchandise Displays and Sandwich Board Signs shall be removed from the public sidewalk at such time the business is not open to the public.
- (2) Private Decorative Fixtures are permitted 24/7 or at the discretion of the adjacent merchant/property owner.

Sec. 16-706. - Annual Permit and Certificate of Insurance Required

- (1) Merchants/property owners who display Merchandise Outdoors and/or Sandwich Board Signs shall obtain an annual permit. The annual fee shall be as specified in Title 22 – Comprehensive Fees and Penalties and be applicable for both Outdoor Merchandise Displays and Sandwich Board Signs. A permit is not required for Private Decorative (not for sale/non-advertising) Fixtures.
- (2) In addition to the annual permit, merchants utilizing Sandwich Board Signs shall obtain a one-time Certificate of Appropriateness (COA) which shall be included in the initial permit application process. A small COA sticker shall be affixed to the interior of the sign.
- (3) Approved Guided Tours originating within Historic Downtown Franklin shall receive approval from the Historic Zoning Commission and obtain a COA for all signage.

(4) A Certificate of Insurance with the City of Franklin named as an additional insured and with minimum coverage limits as specified in Title 22 – Comprehensive Fees and Penalties shall be submitted with the annual permit and fee. A Certificate of Insurance is not required for Private Decorative (not for sale/non-advertising) Fixtures.

Sec. 16-707. - Penalty

The City reserves the right to regulate the Outdoor Merchandise Displays and Sandwich Board Signs. Should any merchant/property owner be found in violation of the terms of this Chapter, that merchant/property owner shall be issued a Notice of Violation (NOV). Failure to immediately comply with an NOV or obtaining a total of three (3) NOV's in any twelve (12) month period shall result in revocation of the annual permit for one (1) full year.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: _____
ERIC S. STUCKEY
City Administrator

BY: _____
DR. KEN MOORE
Mayor

PASSED FIRST READING

PASSED SECOND READING

Approved as to form:

By: _____
Shauna R. Billingsley
City Attorney