

## Chapter 10-6

### PUBLIC WAYS

#### Sections:

- 10-6-1 Removal Of Snow And Ice**
  - 10-6-2 Obstructions on Right of Ways**
  - 10-6-3 Tables, Chairs, Benches, Cigarette Snuffers, and Potted Plants on Sidewalks**
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- Section 10-6-1 Removal Of Snow And Ice**

It shall be unlawful for any person, firm or corporation to remove snow, ice or accumulations of snow or ice from private premises and to deposit or place the same upon any public highway, street, avenue, alley or public park within the City of Storm Lake, Iowa, unless said public park has been designated by the City as a snow depository.

#### **Section 10-6-2 Obstructions on Right of Ways**

It shall be unlawful for any person to place or cause to be placed over, into or upon any of the public streets and sidewalks of the city any obstruction whatsoever, including any building, structure, furniture, decoration, fence, projection, lumber, timber, brick, stone, wood or other material, goods, wares or merchandise, rubbish, manure, refuse, produce or other commodities, except for the purpose of immediate transfer, or for immediate construction or lawful repair of such street or sidewalk, or except as may be allowed by 10-6-3 or other ordinances of the city.

(Ord. 01-O-2008-2009, Amended, 08/18/2008)

#### **Section 10-6-3 Tables, Chairs, Benches, Cigarette Snuffers, and Potted Plants on Sidewalks**

(A) Any proprietor of an establishment in those areas of the city that are zoned CBD (Central Business District), may use that portion of the public sidewalk that is immediately adjacent to and that lies in between the side property lines, as extended to the curb, of the public sidewalk, for the purpose of providing tables, chairs, benches, cigarette snuffers, and potted plants for the convenience of and use by such proprietor's customers and others, with the following restrictions:

1. Such proprietor and the proprietor's employees shall not at any time serve any food or beverages to customers or others seated at such tables, chairs and/or benches.
2. Tables, Chairs, Benches, Snuffers, and Potted Plants must be placed adjacent to the building. There must be a minimum of five consecutive feet of unobstructed public sidewalk between any such tables, chairs, benches, cigarette snuffers, and potted plants and the curb line of the public street and/or any other structures on the sidewalk, in order to allow for the free passage of pedestrian traffic on the public sidewalk, provided, however, that the city may, in granting a permit under this subsection, require more than five feet of unobstructed public sidewalk

clearance if, in the reasonable determination of the city, such additional clearance is necessary in the interests of public safety, health, or welfare, in light of the peculiar circumstances involved with the particular permit application, and the physical characteristics of the public sidewalk area in question.

3. There must be a minimum of a two-foot clearance between any such tables, chairs, benches, potted plants and each side of any doorway leading from the establishment onto the public sidewalk.
4. On corner lots there must be a minimum of a 3 foot clearance between tables and chairs, etc. and the corner of the building.
5. No such tables, chairs, benches, cigarette snuffers, and potted plants shall be attached in any manner to the public sidewalk or to any public fixtures located on the public sidewalk or within any flower bed or box on the sidewalk. The proprietor shall be responsible for any damage to the public sidewalk or to any public fixtures located on the public sidewalk caused by said tables, chairs and/or benches.
6. By the closing time of such establishment each night, all such tables, chairs, benches, cigarette snuffers, and potted plants shall either:
  - (a) be moved inside the building restoring the public sidewalk to its normal condition as a pedestrian walkway; or
  - (b) be secured by means of chains and locks or some other secure means approved by the city Building Official, and not attached in any manner to the public sidewalk or to any public fixtures located on the public sidewalk, in such a way that such tables, chairs, benches, cigarette snuffers, and potted plans cannot be used to cause damage to persons or property during the hours such establishment is closed.

If the proprietor selects the alternative set forth in subparagraph (b) of this subsection 5, the proprietor shall be responsible for insuring that such tables, chairs, benches, cigarette snuffers, and potted plants do not cause damage to persons or property during the hours such establishment is closed.

  - (c) Flower pots and snuffers weighing at least 40 lbs. or more may be left outside of a business unsecured as outlined by subparagraph (b) of this subsection 5, so long as the proprietor accepts responsibility for the item.
7. Tables, chairs and benches must be maintained to assure they are safe to be used by the public.
8. Tables, chairs, benches, cigarette snuffers, and potted plants must be maintained in a safe and sanitary condition at all times.

**(B) Permit Required**

Before a proprietor of such an establishment may lawfully place any tables, chairs, benches, cigarette snuffers, and potted plants on the public sidewalk in front of such establishment, the proprietor shall file an application for a permit with the Building Official of the City of Storm Lake, on a form furnished by the Building Official, and shall pay a non-refundable annual

permit fee therefore, in such amount as shall be determined from time to time by resolution of the city council.

1. The application show:

(a) a physical description of the tables, chairs, benches, cigarette snuffers, and potted plants that will be used;

(b) the means by which such tables, chairs, benches, cigarette snuffers, and potted plants shall be secured, as provided in this subsection;

(c) the written consent to the filing of said application from the owner of the building in which such establishment is located, if the applicant is not the owner of the building;

(d) proof of insurance as outlined in subsection (9) below; and

(e) such other information and documentation as the city may require in order to comply with the requirements of this subsection.

2. The Building Official shall review applications for compliance with the requirement of this subsection, compliance with the interests of public safety, and health or welfare.

The Building Official shall forward a copy of the application and all documentation to the Application Review Committee (comprised of Central Business District Store Owners and a city staff representative serving in an ex officio capacity), for compliance with the aesthetics of the downtown area.

If the application is approved by both the city Building Official and the Application Review Committee, as being in compliance with the requirements of this subsection, the Building Official shall issue a permit to the applicant.

If the application is not approved by both the city Building Official and the Application Review Committee, the Building Official shall notify the applicant of the reason or reasons the application was not approved.

The applicant shall be afforded a period of 30 days from the date of the notice, within which to revise the application in an effort to comply with the requirements of this subsection and to correct the reasons for denial thereof.

3. Any permit issued under this section shall be issued for a period of one calendar year, and may be renewed upon the filing of an application for renewal of the permit before its expiration by the proprietor, and by payment of the required annual fee. The application for renewal shall state whether or not any of the contents of the original application is being revised, failing which the contents of the application for renewal shall be deemed to be the same as contained in the original application.

4. In the event that ownership of the establishment holding the permit is sold, conveyed or transferred to another person or entity, the permit shall not thereby be transferred, and the new owner shall be required to file a new and separate application for such a permit, as provided in this subsection.

5. The city reserves the right to limit the number of permits issued under this subsection if necessary to maintain adequate pedestrian flow, to permit adequate access to building entrances, to safeguard pedestrian and traffic safety, to preserve the aesthetic quality of the surrounding area, or for any other valid public purpose.

The city reserves the right to either deny an application which otherwise meets the requirements of this subsection, or to require the proprietor to meet additional terms and conditions for issuance of a permit beyond the requirements set forth in this subsection if, in the reasonable determination of the city, either granting the permit, or granting it without such additional terms and conditions, would not adequately protect and preserve the rights, privileges, and property of the city or of its residents, or would not adequately protect or preserve the peace, safety, health, welfare, comfort or convenience of the city's residents.

6. The Building Official may order the immediate removal of any or all of a permit holder's tables, chairs, benches, cigarette snuffers, and potted plants in the event such items are causing a hazard to public safety, health or welfare, are interfering with the unobstructed passage of pedestrians, are unsightly in appearance or unsanitary in condition, are interfering with removal of ice and snow from the public sidewalks, or for any other reason affecting public safety, health or welfare.

7. A permit issued under this subsection shall be revoked if the proprietor holding the permit does any of the following:

- (a) fails to maintain ownership or permission from the owner of the establishment adjacent to where the tables, chairs, benches, cigarette snuffers, and potted plants are located;

- (b) fails to either move the tables, chairs, benches, cigarette snuffers, and potted plants inside the establishment, or fails to secure them, as required in subparagraph (A)5 of this subsection;

- (c) fails to pay the fee for issuance or renewal of the permit;

- (d) fails to operate in strict compliance with all of the provisions of this subsection, of all other city ordinances, and of state law; or

- (e) places items on the sidewalk that were not included or approved in the permit.

- (f) creates or allows to exist a safety hazard, health hazard, or public nuisance under state law or city ordinance, in connection with the placement or use of the tables, chairs, benches, cigarette snuffers, and potted plants.

Upon the occurrence of any of the events described in this subparagraph (7), the Building Official shall give the proprietor of such establishment notice of revocation of the permit, and the permit holder shall thereupon immediately cease to place tables, chairs, benches, cigarette snuffers, and potted plants on the public sidewalk adjacent to the proprietor's establishment.

8. The city shall retain the right to terminate any permit granted under this subsection upon seven days' written notice, and may require the removal of all tables, chairs, benches, cigarette snuffers, and potted plants from the public sidewalk adjacent to an establishment, if the city council, after due consideration, determines that there is a reasonable and substantial need for the use of the public right-of-way being occupied by such tables, chairs, benches, cigarette snuffers, and potted plants, for a valid public purpose. The determination of the city council shall be final, and there shall be no right of appeal from such decision.
9. A permit to place tables, chairs, benches, cigarette snuffers, and potted plants under this division shall not be issued unless the applicant furnishes proof of insurance which meets the following requirements:
  - (a) Commercial general liability insurance coverage in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage with a \$2,000,000.00 aggregate. The city shall be named as an additional insured on the policy. An endorsement shall be issued as a part of the insurance policy, evidencing compliance with this requirement.
  - (b) The insurance policy or policies shall be issued by an insurance company having authority to do business in Iowa with a rating of A- under Best's Key Rating Guide.
  - (c) The insurance policy or policies shall contain a provision requiring 30 days advance written notice to the city if the policy is to be cancelled, not renewed, or if any material change in coverage is to be made.
  - (e) Failure to furnish or continue to provide required insurance coverage shall be grounds for revocation of the permit.

(Ord. 11-O-2008-2009, Amended, 04/20/2009; Ord. 01-O-2008-2009, Add, 08/18/2008)

#### **Section 10-6-4 Municipal Infraction**

A violation of the provisions of this Chapter shall constitute a Municipal infraction subject to the penalties and alternative relief authorized by Title 1, Chapter 20 of this Code and by Section 364.22 of the Code of Iowa.

(Ord. 01-O-2008-2009, Add, 08/18/2008)