

## **Chapter 904 CAFÉ SEATING, BANNERS AND NON-PERMANENT AMENITIES INSTALLED WITHIN PUBLIC RIGHT-OF-WAY**

### **904.0 Right to enforce.**

The ~~D~~irector of the ~~public service department~~, the ~~D~~irector of the ~~D~~epartment of ~~P~~ublic ~~S~~safety, the ~~D~~irector of the ~~D~~epartment of ~~D~~evelopment, the ~~H~~health ~~C~~ommissioner and their designees shall have the authority to enforce applicable sections of the Ohio Revised Code and this chapter of the Columbus City Codes (1959) Revised.

### **904.01 Purpose and scope of chapter.**

The purpose of this chapter is to provide for the regulation of privately owned amenities to, or the limited use and occupation of sidewalk or other real property within the public right-of-way in the city of Columbus and to set forth the policies of the city related thereto. Nothing in this chapter shall relieve the applicant from the responsibility to obtain those additional permits required by Columbus City Codes, Chapters 902, ~~Health and Safety~~; 903, ~~Excavation/Occupancy Regulations~~; 905, ~~Sidewalk, Bikeway and Driveway Construction and Repair~~ and 910, ~~Comprehensive Rights of Way~~ or any other Columbus City Code Chapters that might be relative to the installation proposed by the applicant.

### **904.02 Director of public service and/or their designee's consent required.**

- A. Any ~~company, corporation, persons or individuals~~ wishing to use or occupy public right-of-way or other real property within the public right-of-way for placement of private amenities including but not limited to sidewalk or shared-use path seating and/or dining, placement of removable railing or other barricades in conjunction with said seating and/or dining, installation of removable awnings in conjunction with said seating and/or dining, installation of bike racks, flower boxes, movable planters, benches, placement of temporary signage and any other uses authorized in the rules and regulations associated with this chapter must apply for and obtain written consent from the ~~D~~irector of ~~public service and/or their designee~~. Such consent shall be given in the form of a lease for use of public sidewalk or shared-use path or other real property within the public right-of-way, which shall be executed by the ~~D~~irector of ~~public service and/or their designee~~. The city shall review any lease for commercial uses entered into pursuant to this chapter on an annual basis and based upon such review shall determine the suitability of any request for renewal.
- B. Any ~~company, corporation, persons or individuals~~ wishing to install banners or flags within the public right-of-way must apply for and obtain written consent, in the form of an agreement, from the ~~D~~irector of ~~public service and/or their designee~~.
- C. The ~~D~~irector of ~~public service~~ shall promulgate reasonable rules and regulations to carry out the provisions of this chapter.

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#### **904.04 Criteria for granting a lease or executing an agreement.**

- A. The city shall grant a lease for the use of public sidewalk or shared-use path or other real property within the public right-of-way upon determination that:
1. The public health, safety or welfare will not be negatively impacted upon the granting or renewal of such a lease;
  2. The granting of the lease will be consistent with the policy of the city as set forth ~~fourth~~ in Section 904.01;
  3. The applicant is not delinquent on any taxes or other obligations to the city or county; and
  4. For any proposed location within the boundaries of the downtown zoning district, as established in Columbus City Code Chapter 3359.03, or within the boundaries of any architectural review commission, ~~created by one of the chapters included within Chapters 3319 to 3331~~ as provided for in Title 31 of the Columbus City Codes, or for any location falling under the review authority of the historic resources commission, as established in Chapter 3117, or any location within the boundaries of any recognized area commission established in Chapter 3111 of Columbus City Codes, the applicant has received a certificate of appropriateness from the appropriate commission or commission staff.
- B. An agreement allowing the installation of banners and/or flags shall be granted upon determination that:
1. The public health, safety or welfare will not be negatively impacted upon the execution of such an agreement;
  2. The execution of an agreement will be consistent with the policy of the city as set forth ~~fourth~~ in Section 904.01;
  3. The applicant is not delinquent on any taxes or other obligations to the city or county;
  4. The applicant has followed and conformed to the rules and regulations established by the Greater Columbus Convention and Visitor's Bureau or their successor for the installation of banners and/or flags for any proposed location within that area bounded on the south by Interstate Route 70, the east by Interstate 71, the north by Goodale Boulevard and the west by Grubb Street, and known as the downtown banner/flag program area;
  5. The applicant has followed and conformed to the rules and regulations established by the Columbus Neighborhood Design Assistance Center or their successor for the installation of banners and/or flags for any proposed location within the boundaries of an officially recognized neighborhood commercial revitalization area; and
  6. The applicant has followed and conformed to the rules and regulations established pursuant to Section 904.02 of this chapter for the installation of banners and/or flags for any proposed location not within the boundaries of the downtown banner/flag program or an officially recognized neighborhood commercial revitalization area.

#### **904.05 Fees.**

- A. Fees shall be as follows:

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1. For uses deemed by the city to be private amenities to the public right-of-way including but not limited to flower boxes, planters, and benches a one-time fee of two hundred fifty dollars (\$250.00) per application will be required;
  2. For uses deemed by the city to be commercial in nature including but not limited to sidewalk or shared-use path dining, kiosks, and shoeshine stands an initial fee of five hundred dollars (\$500.00), due at the time the original application is submitted and a fee of fifty dollars (\$50.00) for any subsequent annual renewal will be required. Any material change in the scope or purpose for which the original lease was issued will require a five hundred dollars (\$500.00) fee to process the modification; and
  3. No application or annual fees shall be required for the installation of banners/flags within the public right-of-way.
- B. Fees shall be submitted to the ~~D~~director of public service and/or their designee for deposit into the operating fund. Fees shall be paid by check or money order and shall be made payable to the Treasurer — City of Columbus.;
- C. Fees shall remain reasonable and nondiscriminatory.;
- D. Total revenues generated by such fees shall represent a reasonable allocation of public right-of-way related costs as determined by the ~~D~~director of public service and/or their designee.;
- E. The ~~D~~director of public service and/or their designee must receive all fees before any placement of privately owned amenities to or limited use and occupation of sidewalk or other real property within the public right-of-way of the ~~C~~City of Columbus will be permitted.;
- F. Fees shall not be refundable in the event of any revocation or city required removal of facilities as specified in Sections 904.08 and 904.09 of this chapter.

#### **904.06 Special obligations for those seeking leases.**

For those ~~companies, corporations, persons or individuals~~ wishing to lease the public right-of-way for installation of private amenities as described in Section 904.02(A) of this chapter the following obligations shall apply:

- A. The lessee shall restrict use of the leased premises to the patrons, customers and guests of the lessee's establishment when said premises are used for outdoor seating and dining purposes;
- B. The lessee shall not erect or permit any obstructions of a permanent nature to be located within the leased premises;
- C. The lessee shall not erect or permit obstructions of a permanent or temporary nature to be located within the non-leased portion of the public sidewalk or shared-use path or other real property within the public right-of-way;
- D. The lessee shall restrain and prevent its employees, patrons, customers, business invitees, and guests from blocking, obstructing or hindering the flow of pedestrian traffic upon the non-leased portion of the public sidewalk, or pedestrian and bicycle traffic upon the shared-use path or other real property within the public right-of-way;
- E. The lessee shall keep the premises and any adjacent non-leased public sidewalk or shared-use path or other real property within the public right-of-way clean and free of debris;

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- F. Lessee shall acknowledge acceptance of the premises in "as is" condition with absolutely no warranties, implied or expressed, by the city as to the condition or suitability of the premises for the intended use;
  - G. Lessee shall apply for and receive approval for all building, zoning and any other permits required as a result of the proposed use of public sidewalk or shared-use path or other real property within the right-of-way before any occupation of the public sidewalk or shared-use path or other real property within the public right-of-way may occur; and
  - H. Lessee shall not assign any lease without the written consent of the Director of public service ~~and/or their designee~~. Such consent shall not be unreasonably withheld.

#### **904.99 Penalties.**

(a) Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the third degree, and fined not more than five hundred dollars (\$500.00), or imprisoned for not more than sixty (60) days or both. Any such violation shall constitute a separate offense on each successive day continued.

(b) Strict liability is intended for violations of this chapter.

(c) Organization criminal liability as provided for in City Code Section 2301.23, is intended for violations of this chapter.