



City of St. Joseph
City Clerk's Office
700 Broad St.
St. Joseph, MI 49085
Phone 269.983.4731

Downtown Sidewalk Amenities Temporary Encroachment Policy



1) Purpose

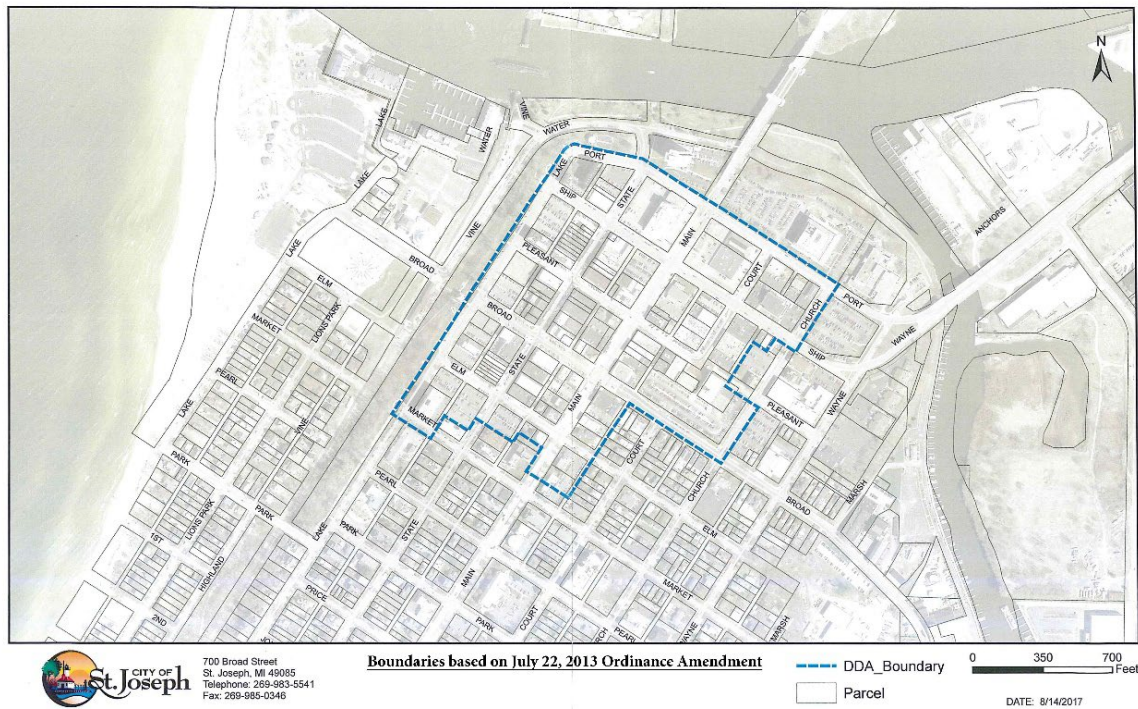
- a) The purpose of the Downtown Sidewalk Amenities Temporary Encroachment Policy is to create an attractive streetscape, enhance the economic and social vitality of the downtown, to foster pedestrian and retail friendly activities by allowing the use of the public right-of-way for temporary signage and seasonal equipment associated with a business. The rules and regulations are in place to promote the health, safety and welfare of the residents, business and property owners and those visiting the downtown area.
- b) The City of St. Joseph recognizes the unique nature of the downtown pedestrian experience, typically found along State Street between the St. Joseph River and Elm Street and the abutting side streets between Lake Boulevard and Court Street, and wishes to allow certain uses of the public sidewalks in this area that would otherwise not allowed by City ordinance. It is believed this helps to encourage commerce and enhance the walkable district.
- c) On January 7, 2020 the St. Joseph City Commission adopted the Downtown Vision Master Plan. Within Chapter 5 Urban Design and Character, outdoor dining is described as “the City should promote opportunities for restaurants to feature outdoor patios and rooftop decks, especially at locations with view of Lake Michigan or the St. Joseph River. Outdoor dining should be designed in a way that doesn’t impact pedestrian circulation. The character and materials used should be in line with the character of the primary structure.” This text is later found under Recommendation 5.9 with the actions including: 1) coordinate with restaurants to identify potential locations for outdoor dining and 2) ensure the layout and design of outdoor dining does not impact pedestrian circulation.
- d) The intent of this policy is, first and foremost, to ensure the provision of safe, ADA-compliant pedestrian "accessible routes" of an appropriate width, free of all obstacles and hazards, on the public sidewalks within the downtown area. Once these accessible routes have been established and maintained to provide safe pedestrian passage, the City recognizes that certain privately provided sidewalk amenities add convenience, charm, character and economic benefit to the downtown area, and determined that there is a public purpose in permitting these encroachments into the public right-of- way, within certain limits.
- e) While this policy was originally intended in 2003 to exist only so long as it was self-policing; that is, downtown businesses must voluntarily comply with the conditions of this policy in recognition of the fact that these uses are not typically permitted under City ordinance. Over time, the City

has found enforcement is necessary and may remove and impound the items and/or rescind the individual permit issued as determined necessary. The policy continues to be reviewed and improved to address concerns that arise over time and changes to environment.

- f) The City reserves the right to require the removal of any item or items in the public right-of-way, regardless of whether the item may be otherwise permitted under this policy, if in the sole judgment of the City, the item or items constitute a particular hazard to the public health, safety, or welfare that outweighs the potential public benefit.
- g) This policy does not apply to any specific permission, permit, or license granted by the City Commission; for example, vendor permits, or permissions for special "sidewalk sales" or other events. Valid vending permits and/or special event permits supersede this policy. The need to obtain permits for permanent structures such as buildings, awnings or permanent signage is required and typically requires the approval of a License Agreement by the City Commission.

2) District Boundaries

This policy only applies to those businesses located within the Downtown Development Authority District boundaries as amended from time to time. The current boundaries from July 23, 2013 are below.



3) Valid Time Periods

- a) Sandwich board are allowed year-round and must be easily removed and stored in doors when the establishment is closed to the public.
- b) All other temporary items – April 1st through November 1st. Weather conditions may allow for an earlier/later start and ending date, at the discretion of the City Manager. The outdoor storage of approved temporary items is allowed only during the established time period.

4) Permitted Temporary Items

- a) Animal water stations. Water bowls/containers should be located adjacent to the building, so as not to create a tripping hazard. During winter months care should be taken if the bowl tips and the water freezes on the public sidewalk.
- b) Ash receptacles. It shall be responsibility of the business to empty the container and properly dispose of the debris.
- c) Benches, tables and/or chairs. All items must be easily removable (not attached to buildings or sidewalks) so that the public right-of-way can easily be restored back to its original condition.
- d) Planter pots. All planters, plant material and beautification artifacts shall be maintained while located on the public right-of-way and shall not interfere with the accessible route provided for people with disabilities.
- e) Sandwich boards that are not illuminated or amplified. In accordance with Chapter 25 of the Code of Ordinances, which states:
 - i) no more than one sandwich board sign per business;
 - ii) maximum overall height of four feet (4'), measured from the ground to the top of the sign;
 - iii) maximum width of two feet (2') for a maximum sign area of eight square feet (8 sf) per side;
 - iv) it is placed outside only during business hours and stored inside when the business is closed to the general public;
 - v) it is constructed of weather resistant, durable material, and kept in good repair;
 - vi) it does not have moving parts or attachments, including but not limited to balloons, pinwheels, streamers, pennants, flags, similar adornments, or advertisements;
- f) Other similar temporary items not prohibited.

5) Prohibited Items and Usage

- a) Advertising on placed items, with the exception of approved sandwich boards, shall not include logos, graphics or names.
- b) Elevated decking.
- c) Fencing.
- d) Heating equipment.
- e) Merchandise for sale other than approved sidewalk day sales as established by the City of St. Joseph.
- f) Outdoor loudspeaker, public address system, radio or similar devices.
- g) Painting of the public right-of-way.
- h) Permanent fixtures, tables, seating, or barriers, unless a license agreement has been granted and entered into with the City of St. Joseph. License agreements for permanent items typically requires an annual fee based on the size of the seating area associated with the business.
- i) Sidewalk service. No employee shall leave the interior of the establishment to distribute a menu, take an order or check on patrons. An employee may deliver previously ordered and paid for food to a customer outside the establishment. To provide sidewalk table service a business must obtain a License Agreement from the City of St. Joseph.
- j) Temporary structures such as a canopy or awning or umbrella.
- k) Others as determined not appropriate by the City Manager.

6) Restrictions on Placement of Temporary Items

- a) Any item to be located or placed on the public right-of-way must be located in front of the applicable establishment. The placement of temporary items on adjacent properties is prohibited.
- b) Items shall not be placed within City owned planting beds, tree grates or planter pots or other items owned by the City.
- c) All items shall be placed within the established User Zone as defined above.
- d) Sandwich Board placement and exceptions:
 - i) Businesses located on the 400 block of State, Elm, Ship, and Pleasant Streets (only) may cooperate to place common sandwich board or other signs at the intersection of the appropriate street and State Street. Each business choosing to participate in such a common sign may not have a sign in front of their business. There may be only one such sign on each side of State Street at each intersection. Each business may be advertised only on one such sign. These common signs may be placed on the sidewalks within the intersection area, may not encroach upon the accessible routes and must otherwise abide by all restrictions in this policy. The City will not arbitrate any disputes over such common signs. If eligible merchants on one of the above streets are unable to resolve disputes regarding the cost, payment, style, placement, or other aspect of such signs, no common sign shall be permitted at that particular intersection.

7) Miscellaneous General Restrictions and Conditions

- a) Temporary Items:
 - i) Become amenities for the general public, and may not be reserved for the use of patrons of any specific business.
 - ii) Shall use high quality, durable and attractive of consistent color, style and type and designed to withstand inclement outdoor weather.
 - iii) Shall be used for their intended use, properly constructed, maintained in a safe and sanitary condition.
 - iv) May not be leaned or placed against, or attached, affixed, tied, or chained to a tree, lamppost, tree grate, street signage, or fixture located in the public right-of-way.
- b) Use of Public Right-Of-Way/Sidewalk:
 - i) Shall be maintained for general appearance and cleanliness. The City of St. Joseph will have no responsibility to provide additional trash cans and/or cleaning or power washing of sidewalks due to these private amenities.
 - ii) Sidewalk on which the items are placed shall be flat and in good repair.
 - iii) Shall not interference with the use of the public right-of-way for pedestrian or vehicular travel.
 - iv) Shall not unreasonably interfere with the view, access to, or use of property adjacent to the public right-of-way (street or alley) or to the use of adjacent properties.
- c) In General:
 - i) The placement of items shall not interfere with the set up or the operation of any special events.
 - ii) It shall be the responsibility of the applicant (typically the business owner) that all aspects of this policy are adhered too.

- iii) The City of St. Joseph is not responsible for any theft or damage to any temporary items placed in the public right-of-way, for any damages or injuries that result from a business placing a temporary item in the public right-of-way, nor for any damages or injuries that result from a business' failure to abide by the provisions of this policy.
- iv) Items left out or misplaced may be removed by the City. The City is not liable for damage occurring to items misplaced or left out.
- v) Prior to issuance of any permit, the applicant must provide the City with evidence that it has a comprehensive general liability insurance policy in an amount no less than \$1 million per occurrence with an Endorsement to the Policy, naming the City of St. Joseph as additional insured. Language to state "City of St. Joseph and its officers, employees and agents" as additional insured, in the amount of no less than \$1 million per occurrence.

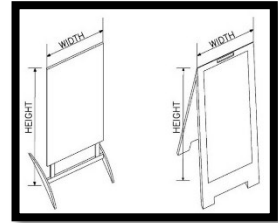
8) Administration and Enforcement

- a) To obtain an approved Outdoor Temporary Sidewalk Amenities permit, a complete application form shall be filed by the tenant with the written consent of the property owner or the property owner on a form developed and provided by the city. The completed application form shall be filed with the City Clerk together with all required fees or deposits, information and materials specified by the application or determined by the City Clerk as necessary to review the application and ensure compliance with the policy.
 - i) The application shall require proof of comprehensive general liability insurance evidence that it has a comprehensive general liability insurance policy in an amount no less than \$1 million per occurrence with an Endorsement to the Policy, naming the City of St. Joseph as additional insured. Language to state "City of St. Joseph and its officers, employees and agents" as additional insured, in the amount of no less than \$1 million per occurrence.
 - ii) Site Plan – a drawing of the sidewalk area must be submitted indicating the following:
 - (1) Dimensions of the property frontage;
 - (2) Entrance into tenant space and location of entrance into adjacent properties (if door is along shared lot line/building wall)
 - (3) Dimensions from building face to back side of the curb closest to the building (typically a change in concrete can be found);
 - (4) The location of any permanent structures, such as but not limited to: raised planter bed; light pole; refuse containers; tree grates; trees; planter pots; information kiosks; newspaper box; fire hydrant; driveways; bicycle racks and other similar items;
 - (5) Placement of all tables, chairs, benches, planters, etc. proposed on the sidewalk;
 - (6) Dimensions of the one sandwich sign; and
 - (7) A description of how this area will be managed and maintained.
 - iii) If required submittal of the required fee as established by the city commission.
- b) All plans and permits for the Outdoor Temporary Sidewalk Amenities Permit approved by the City must be kept on the premises for inspection at all times the establishment is open for business.
- c) Permits issued and found not to be operating in compliance with the Policy may have the permit revoked.
- d) Any questions involving the interpretation or application of these rules and this Policy, or any questions or requests not addressed in this Policy, shall be decided by the City Manager.
- e) Renewal of Permits. Properties that received Outdoor Temporary Sidewalk Permits in the previous year and have current liability insurance will automatically receive a permit from the City

Clerk's Office. If it is determined that changes were made to the original permit, city staff may require an updated site and application which reflects the changes made.

9) Definitions

a) Sandwich Board. A free-standing, portable, temporary sign consisting of two faces connected and hinged at the top and whose message is targeted to pedestrians; it is also known as an A-frame sign or inverted T-shaped sign.



b) Sidewalk Zones. The public right-of-way sidewalk is made up of several zones. Exhibit Attached.

i) Accessible route shall be determined as follows:

- (1) The accessible route shall not include trees, bushes, planter beds, walls, fire hydrants, tree grates, light poles, or any other fixtures permanently located in the right-of-way.
- (2) No sidewalk amenities, obstacles, or obstructions of any sort may be placed within or encroach upon the accessible route
- (3) The accessible route shall be a straight path within each block as marked by the City.
- (4) The minimum accessible width for sidewalks greater than five feet (5') wide is five feet (5').
- (5) In locations where the sidewalk is five feet (5') or less in width, the minimum accessible route can be decreased to three feet (3') if determined to be appropriate by city staff.

ii) Building Window Zone. The area adjacent to the building and running parallel to the public right-of-way which provides access to the store windows. The maximum width is two feet (2') once the Accessible Route has been provided. Amenities may be located within this area.

iii) Curb Zone. The area adjacent to the back of the street curb and being a minimum of twenty-four inches (24" or 2') in width or any area within five feet (5') of an alley or driveway. No items shall be placed within this area as it constitutes a hazardous vision or safety obstruction.

iv) User Zone. Any space remaining between the accessible route and the building window zone or the accessible route and the curb zone area.

c) Vertical Clearance. The distance measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or other structural elements. The minimum vertical clearance is eighty inches (80") or six feet eight inches (6'8")

