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Title: Repealing Toledo Municipal Code Chapter 719, "Courtesy Benches"; and declaring an emergency.

Sponsors:

Indexes:

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Attachments:

Date	Ver.	Action By	Action	Result
3/21/2023	1	City Council	Suspension	Pass
3/21/2023	1	City Council	Emergency	Pass
3/21/2023	1	City Council	Passage	Pass

Courtesy Benches
Department of Law
K. Henderson x1020

Repealing Toledo Municipal Code Chapter 719, "Courtesy Benches"; and declaring an emergency.

SUMMARY & BACKGROUND:

The City of Toledo Courtesy Bench permitting process for courtesy benches at bus stops has been found to be ineffective, unattractive and challenging to manage. To build upon the momentum of the City's beautification efforts, the City desires to own, maintain and control courtesy benches within its own right of way. Repealing Chapter 719 of the Toledo Municipal Code eliminates the permitting process to third parties.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 719, "Courtesy Benches" as set forth below, is hereby repealed:

CHAPTER 719

Courtesy Benches

719.01. Scope.

Courtesy benches for the convenience of local bus patrons and members of the general public, which benches contain advertising matter, may be installed and maintained upon public thoroughfares and public sidewalks of the City by persons, firms or corporations at zero cost to the City in the manner and subject to the conditions and regulations prescribed by the following sections of this chapter.

719.02. Permits required.

(a) No courtesy bench shall be installed or maintained by any person, firm or corporation until a permit is obtained from the Commissioner of the Division of Building Inspection on forms prescribed by such official.

(b) The total number of permits which may be issued for courtesy benches shall be at the discretion of the Commissioner of the Division of Building Inspection.

(c) No more than one courtesy bench shall be permitted at any bus stop except that the Commissioner of the Division of Building Inspection may issue permits for more than one bench when conditions warrant.

719.03. Application for permits.

An application for a permit shall be submitted to the Commissioner of the Division of Building Inspection disclosing the name and address of the applicant, the location of the proposed courtesy bench or benches together with any other information required by the Commissioner. One application may be made for one or more benches and one permit may be issued for one or more benches, provided, however, that a separate fee shall be paid as hereinafter provided.

719.04. Fees; nature of permits; advertising revenue; refunds.

Each application for a permit shall be accompanied by a fee of twenty-five dollars (\$25.00) for each courtesy bench. All permits expire at midnight on March 31st of each year. Permits shall be assignable and no refunds or rebates shall be made when permits are revoked except as otherwise provided in this chapter. The City reserves the right to contract for installation of Courtesy Benches in addition to the permit procedures herein. All fees collected shall be paid over to the Director of Finance and placed to the credit of the General Fund. A negotiated percentage of advertising revenue from each courtesy bench permitted shall be paid to the City and placed to the credit of the General Fund.

719.05. Issuance of permits.

If the Commissioner of the Division of Building Inspection finds that the applicant has complied with all of the provisions of this chapter and the maintenance of a bench or benches at the proposed locations will not tend to obstruct passage or create a hazard to persons traveling on the public way in the vicinity thereof, he/she shall issue a permit; otherwise such application shall be denied.

719.06. Revocation of permits.

The Commissioner of the Division of Building Inspection may revoke any permit issued under authority of this chapter for any of the following reasons and as hereinafter set forth:

(a) Violation by the permittee of any of the provisions of this chapter.

(b) Any fraud or misrepresentation made by the permittee in the application.

(c) Failure by the permittee or applicant to maintain in full force and effect the necessary indemnity bond or evidence of public liability insurance as required by this chapter.

(d) Where continued maintenance of a bench at a specified location shall be deemed by the Commissioner of the Division of Building Inspection to be a hazard to pedestrian and vehicular traffic. In this event revocation shall be partial only and shall apply to the bench or benches involved and the fee for such specified bench heretofore paid shall be refunded pro-rata to the permittee.

(e) The Commissioner of the Division of Building Inspection may revoke any permit which has been issued if no bench is placed on the location for which the permit is issued within sixty days after issuance. In the event a bench is removed from a location and no bench is thereafter placed on such location for a period of sixty days, the Commissioner of the Division of Building Inspection shall revoke the permit for such location and no permit shall be issued for such location unless a new application is filed.

(f) Each permittee shall file with the Commissioner of the Division of Building Inspection a quarterly report listing all bench locations maintained, including benches removed, relocated, or repaired, by such permittee and

an accounting of revenue from the advertising. Failure to file these reports will result in a fine of seventy-five dollars (\$75.00), which must be paid for the issuance, or renewal of any bench permit.

719.07. Bench removal upon violation.

If the permittee shall not remove a courtesy bench at the location for which the permit has been revoked as hereinbefore provided, or if the same shall not be removed upon the expiration of any permit without renewal thereof, the Commissioner of the Division of Building Inspection may remove same and charge the costs of such removal and the storage thereof against the permittee. The permittee may recover the bench if he/she pays such costs within thirty days after such removal; otherwise title to such bench shall vest in the City and the permittee's rights therein shall be forfeited, with all outstanding costs to be paid before the permittee can renew any permits. The cost for renewal will be charged at the current hourly rate of a "heavy equipment operator" including benefits with a two-hour minimum. The cost for storage will be fifty dollars (\$50.00), and the cost of disposal will be one hundred dollars (\$100.00).

719.08. Location and terms of maintenance.

The permittee shall cause any courtesy bench(s) to conform to the following requirements.

(a) No bench shall display the words "STOP," "LOOK," "DRIVE-IN," "DANGER," or any other word or words which might mislead or distract traffic.

(b) No bench shall be more than forty-four inches in height and thirty-two inches wide, nor more than eight feet long. Benches shall be constructed of durable, weather resistant, low maintenance materials. Benches shall be constructed to reduce damage associated with vandalism and improve the visual aesthetic of the streetscape. Each bench shall include the permittee's name and contact information, displayed in a visible location. The seating area of the benches should be designed for quick drying after rainfall. Benches shall be uniform in appearance throughout the City and the Commissioner of the Division of Building Inspection is empowered to make and enforce rules and regulations to accomplish this purpose.

(c) Bench location and placement shall be subject to rules and regulations established by the Commissioner of the Division of Building Inspection and the Division of Transportation.

(d) Permittee shall keep benches at all times in a neat, clean and usable condition and ice, snow, litter and debris shall be removed from the benches and the vicinity thereof in such a manner that each bench shall be accessible at all times.

(e) Advertising shall be displayed only on the front and rear surfaces of the backrest.

(f) All courtesy benches at all locations shall maintain a trash receptacle affixed to the ground. The receptacle shall be capable of allowing water and other liquids to pass through and shall be no smaller than 10 gallons nor larger than 32 gallons. The permittee is responsible to see that the trash receptacle is emptied on an as needed basis and that the area ten feet in diameter around the bus bench is maintained free of litter and debris.

(g) Failure to comply with any or all of the terms of maintenance will result in a seventy-five dollar (\$75.00) fine upon inspection and verification that a violation of the terms of maintenance have been violated. The permittee will be required to pay all fines within thirty days or the bench(s) will be confiscated and the permittee subject to the terms of section 719.07.

719.09. Bond or insurance; nonliability of City.

(a) Before a permit for a courtesy bench shall be issued, the applicant shall post or maintain with the Commissioner of the Division of Building Inspection a bond or policy of public liability insurance approved by the Director of Law and conditioned substantially as follows: That the permittee will indemnify and save harmless the City, its officers, agents and employees from any and all loss, costs, damages, expenses or liability which may result from or arise out of the granting of such permit, for the installation and maintenance of such bench for which a permit is issued and that the permittee will pay any and all loss or damage that may be sustained by any person as a result of or which may be caused by, or arise out of, such installation or maintenance. The bond or policy of insurance shall be maintained in its original amount by the permittee at

his/her expense at all times during the period for which the permit is in effect. In the event that two or more permits are issued to one permittee, one such bond or policy of insurance may be furnished to cover two or more benches and each bond or policy shall be of a type where coverage shall automatically be restored after the occurrence of any accident or loss from which liability may thereafter accrue.

(b) The limit of liability upon any bond or policy so posted shall in no case be less than fifteen thousand dollars (\$15,000) for death or injury of one person; fifty thousand dollars (\$50,000) for total liability for personal injury; and five thousand dollars (\$5,000) for property damage.

(c) Good and sufficient sureties approved by the Commissioner of the Division of Building Inspection shall accompany any bond.

(d) The Commissioner of the Division of Building Inspection shall notify the permittee of any claim of which the City has notice where such claim arises from the installation or maintenance of any courtesy bench as herein approved.

719.10. Limitation of chapter.

Notwithstanding the provisions of this chapter to the contrary, the City through Council shall have the right not to renew any and/or all permits previously issued pursuant to this chapter without paying any compensation to the holder or holders thereof.

719.99. Penalty.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for any second offense within any twelve-month period.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and property of the City, and for the further reason that this Ordinance is required to be immediately effective in order to repeal Chapter 719; wherefore, this Ordinance shall be in full force and effect immediately after its passage or at the earliest time allowed by law.

Vote on emergency clause: yeas 9, nays 0.

Passed: March 21, 2023, as an emergency measure: yeas 9, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

March 21, 2023
Wade Kapszukiewicz
Mayor