

ORDINANCE NO.

AN ORDINANCE CREATING A PILOT PROGRAM TO ALLOW FOR THE TEMPORARY USE OF ON-STREET PARKING SPACES FOR AN EXTENSION OF RETAIL USE AND WAIVING CERTAIN ASSOCIATED FEES AND REQUIREMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS: This ordinance creates a pilot program allowing the temporary use of parking spaces for an extension of a retail use, to be called a “Street Patio.” The pilot program participant (“Participant”) will use the parking spaces to provide seated café space. The pilot program is intended to allow both the city and the public to observe and collect data in order to determine the feasibility of a permanent program.

PART 2. REGULATIONS:

- (A) This ordinance applies to the two parking spaces adjacent to 609 Congress Avenue.
- (B) A person may not sell, barter, trade, store, or take orders for merchandise within the Street Patio area in violation of City Code Chapter 14-9 (*Traffic or Sidewalk Obstructions*). This does not apply to food or drink to be consumed in the Street Patio area.
- (C) The Participant shall obtain a license agreement for use of the parking spaces in City right-of-way. The license agreement and legal review will be processed by city staff in an expeditious manner. The Participant must submit the following for review and processing of the license agreement:
 - (1) proof of general commercial liability insurance coverage in the amount established by the department;
 - (2) submission of a visual plan for the use of the spaces, to include the number, aesthetic, and location of tables, chairs or other furnishings; and
 - (3) maintenance of accessibility in accordance with the American with Disabilities Act (ADA) and Texas Accessibility Standards (TAS).
- (D) The furnishings or their new placement shall not:
 - (1) extend outside of the licensed area;
 - (2) constitute a danger to the health or safety of a patron or the public; nor
 - (3) violate the terms of the license agreement.

- 1 (E) The applicant will be responsible for maintenance of the area.
- 2 (F) If at any time the City or the Participant deems the pilot unsafe or infeasible,
- 3 either party may terminate the license agreement. If the license agreement is
- 4 terminated, a memo describing the issues leading to the termination will be
- 5 issued by staff to Council within 30 days of the termination.

6 **PART 3.** Except as otherwise provided in Parts 3, 4, and 5, City Code Chapter 14-11

7 applies to the pilot program. The following provisions of City Code Chapter 14-11 are

8 waived:

- 9 (A) Sections 14-11-1 through 14-11-3 (*Application Required; Exceptions for*
- 10 *Certain Use of Public Property; and Appeal*) relating to contents and
- 11 procedures, exceptions, and appeals of an application to obtain a license for
- 12 the private use of public right-of-way;
- 13 (B) Section 14-11-4 (*Annual Report*) relating to licensing agreement
- 14 applications;
- 15 (C) Section 14-11-41 (*Application Approval*) relating to application approval for
- 16 use of public right-of-way;
- 17 (D) Section 14-11-42 (*Appraisal of Property*) relating to the establishment of an
- 18 appraised value for the affected property;
- 19 (E) Section 14-11-44 (*Contents of License Agreement*) relating to the contents of
- 20 a license agreement; and
- 21 (F) Section 14-11-45 (*Execution of a License Agreement*) relating to execution
- 22 of a license agreement.

23 **PART 4.** The license agreement annual fee under City Code Section 14-11-43 in the

24 amount of \$8,800 is waived. The annual fee for this pilot program is \$200.

25 **PART 5.** The license agreement application fee under City Code Section 14-11-1 in

26 the amount of \$425 is waived. The application fee for this pilot program is

27 \$100.

28 **PART 6.** This ordinance expires on April 1, 2013.

29 **PART 7.** This ordinance takes effect on _____, 2012.

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PASSED AND APPROVED

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_____, 2012

Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk

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