

**ORDINANCE NO. 20120322-066**

**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.**

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

**PART 1.** 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.** The parameters of the pilot program are:

- (A) This ordinance is applicable 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 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 will 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 within 30 days. The Participant must submit the following for review and processing of the license agreement:
  - (a) proof of general commercial liability insurance coverage in the amount established by the department;
  - (b) 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
  - (c) 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; and
  - (3) violate the terms of the license agreement.

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

**PART 3.** For purposes of this pilot program, the Council waives requirements of the following Code sections:

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

**PART 4.** The license agreement annual fee in the amount of \$8,800 is waived.

**PART 5.** The license agreement application fee in the amount of \$425 is waived.

**PART 6.** This ordinance takes effect on April 2<sup>nd</sup>, 2012.

**PASSED AND APPROVED**

\_\_\_\_\_, March 22<sup>nd</sup>, 2012      §  
§  
§ \_\_\_\_\_ *Lee Leffingwell*  
Lee Leffingwell  
Mayor

**APPROVED:** \_\_\_\_\_ *Karen M. Kennard*  
Karen M. Kennard  
City Attorney

**ATTEST:** \_\_\_\_\_ *Shirley A. Gentry*  
Shirley A. Gentry  
City Clerk