

Bill No. \_\_\_\_\_

Ordinance No. \_\_\_\_\_-16

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 18, ARTICLE 1, SECTION 18-15 OF *THE SOUTH BEND MUNICIPAL CODE* TO ASSURE SIDEWALK ACCESSIBILITY FOR PERSONS WITH DISABILITIES NEAR SIDEWALK CAFÉS**

**STATEMENT OF PURPOSE AND INTENT**

Chapter 18 Article 1, Section 18-15 of the *South Bend Municipal Code* (the *Code*) involves rules and regulations for commercial use of sidewalks.

The purpose of this ordinance is to ensure that use of a South Bend city sidewalk for an outdoor café, or for any other commercial use involving decorative materials and barriers, be done and arranged physically so that such sidewalk and pedestrian walkways meet current ADA guidelines prescribed by the United States Access Board.

Now, Therefore, Be It Ordained by the Common Council of the City of South Bend, Indiana as follows:

**Section I.** Chapter 18, Article 1, Section 18-15 of the *South Bend Municipal Code* shall be amended to read in its entirety as follows:

**Sec. 18-15. - Use of sidewalks for business purposes; sidewalk cafés; permit required; refusal, revocation or suspension of application or permit.**

- (a) It shall be unlawful for any person without a permit from the Board of Public Works to use any sidewalk as a place of business or for any commercial purpose.
- (b) Application for a permit shall be signed by the applicant and be made to the Board of Public Works on such forms as required by such Board and shall contain the name and address of the applicant and the proposed location of the business.
- (c) Such application and the permit issued hereunder, shall conform to all the provisions of this Code and of any ordinance and of all regulations of the City and of all laws affecting the use and maintenance of such business.
- (d) Outdoor cafés and seating areas shall be so located as to maintain maximum sidewalk width and clearance for wheelchair accessibility which shall exclude that portion of a sidewalk reserved as a “separated bike lane.” Sidewalk clearance of at least five feet (60 inches) is required between outdoor café seating structures, landscaping or other barriers and the curb or the closest edge of the separated bike lane. The Public Right Of Way Accessibility Guidelines (PROWAG) shall be followed if more restrictive.

~~(d)~~ (e) In the event that such Board determines that such business or the proposed location of the same will be detrimental to the health, safety, or general welfare of the public

including persons with disabilities, or will interfere with pedestrians or with persons in wheelchairs traveling along the sidewalk, the Board shall refuse the application for a permit.

- ~~(e)~~ (f) The permit issued by the Board shall state the name, address and location of the business of the permittee, and in any instance the Board may require that the permittee therein named shall indemnify and save the City harmless against all liability which may result to the City in consequence of the granting of such permit.
- ~~(f)~~(g) The fee for such permit shall be the sum of ten dollars (\$10.00) for a period of one (1) year from the date of issuance.
- ~~(g)~~ (h) Any application for a permit or any permit issued hereunder may be refused, revoked or suspended by such Board pursuant to the provisions of this Code.

**Section II.** This Ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and any publication required by law.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
Kareemah Fowler, City Clerk

Presented by me to Pete Buttigieg, the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ o'clock \_\_.m.

\_\_\_\_\_  
Kareemah Fowler, City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ o'clock \_\_.m.

\_\_\_\_\_  
Pete Buttigieg  
Mayor of the City of South Bend, Indiana

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED

