


## MEMORANDUM

**TO:** Trustee Johnston, Chairperson  
Economic and Community Development Committee Members

**FROM:** Jennifer Ganser, AICP  
Assistant Director of Community Development 

**DATE:** March 13, 2017

**SUBJECT: Proposed Amendments to Section 110 of the Village Code: Special Events and Sidewalk Sales**

In 2012 the ECDC reviewed regulations and Code for outdoor seating in the downtown, usually on the public sidewalk. Staff is now bringing forth amendments regarding sidewalk sales in the downtown. Downtown Lombard has retailers that have inquired to staff if they could have a sidewalk sale. The increase in retailers in the downtown has led staff to analyze the issue. The downtown lends to different concerns, than for example Roosevelt Road, as the downtown sidewalk sale items may mostly be on Village owned property, similar to downtown outdoor dining.

Section 110 of Village Code pertains to special events. Retailers along Roosevelt Road, such as Harbor Freight Tools, have tent sales that take place in their parking lot. These tent sales can be thought of similar to a sidewalk sale. These are temporary events, occurring four times a year or less, for a maximum three day consecutive period. Staff is not proposing any changes to the time period. Businesses that need to continually sell items that are displayed outdoors, such as propane tanks at a gas station, receive a conditional use for outdoor display of items for sale. Staff discussed sidewalk sales with the Lombard Town Centre Board and will bring this item back to LTC for further discussion.

### **CODE AMENDMENTS**

Staff notes that due to the unique nature of downtown items for a sidewalk sale may be on Village owned property. Staff proposes amendments to Section 110 to clarify the fee provisions for a sidewalk sale in the downtown, which is consistent with Code for outdoor seating permits in the downtown that also come at a reduced fee. Staff also proposes to codify that materials on the public sidewalk need to be brought inside at the end of each day of the event.

Staff proposes the following amendments. New text is shown in **bold underline**.

§ 110.40 - Definitions.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Attraction:* Any shows, acts, games vending devices; food stalls, booths or tents, rides or amusement devices.

*Seasonal outdoor garden sales:* The sale and delivery of garden materials, including live flowers, trees, shrubs, vegetables, and similar live plants; cut trees, wreaths, and similar organic holiday decorations; landscape materials; and hardware implements associated with the installation and maintenance of the aforementioned items, to the public not conducted within a completely enclosed building. Sale may include the offering of refreshments and entertainment accessory to the sale.

*Temporary event:* Any temporary outdoor event, temporary special event, or any similar activity or land use, occurring over a specific and limited span of time, which has not been authorized or permitted by the certificate of occupancy or conditional use approval, other than a carnival, as defined in and regulated by § 110.60 of this Code.

*Temporary open air cafe:* The sale and delivery of food items intended for consumption on the premises for no more than a three-day period, not conducted within a completely enclosed building, with or without the provision of seating.

*Temporary outdoor event:* Any temporary open air cafe, temporary outdoor sale or auction, or any similar activity or enterprise, not conducted within a completely enclosed building.

*Temporary outdoor sales or auctions:* The sale and delivery of goods to the public for no more than a three-day period, not conducted within a completely enclosed building. Sale may include the offering of refreshments and entertainment accessory to the sale event. **Items on the public sidewalk shall be brought inside at the end of each day of the event.**

*Temporary special event:* Any activity conducted within a completely enclosed building or structure, which is not specifically permitted by the certificate of occupancy issued for the building or structure in question.

(Ord. No. 7043, § 1, passed 2-5-15)

§ 110.41 - Permit required.

It shall be unlawful for any person, firm, or corporation to set up, run, operate, or conduct any temporary event as defined in § 110.40, in other than full compliance with the provisions of this subchapter and having first been issued a written permit from the Department of Community Development.

(Ord. No. 7043, § 1, passed 2-5-15)

§ 110.42 - Application.

The applicant for such permit shall file an application in writing with the Department of Community Development at least 20 days prior to the date of the opening to the public, which application shall specify:

- (A) The name of the person, firm, or corporation which will use the structures already erected or to be erected.
- (B) The location of the principal place of business of such person, firm or corporation.
- (C) The names and addresses of the officers of such firm or corporation.
- (D) The length of time any structures to be erected are intended to be used as places of assembly.
- (E) The hours during which the structures are intended to be used as places of assembly.
- (F) The maximum anticipated attendance at the event at any one time.
- (G) The provisions made for sanitary facilities for persons using the premises on which the temporary event is to be maintained.
- (H) A detailed description and documentation of plans and provisions for crowd control and security at the temporary event.
- (I) A site plan showing the location of all attractions, exits, sanitary facilities, fire alarms/life safety equipment, electrical connections to be used, stages or platforms to be erected, driveways to be used, and parking provided. In the case of a temporary special event, plans/diagrams/drawings of the building or structure to be used, showing the aforementioned items.

(Ord. No. 7043, § 1, passed 2-5-15)

§ 110.43 - Insurance.

- (A) The applicant shall furnish evidence with the application that a public liability and insurance policy shall be in force and effect at the time such temporary event is to be open to or maintained for public access. Said insurance policy shall maintain limits no less than:
  - (1) Comprehensive general liability: \$1,000,000.00 combined single limit per occurrence for bodily injury, personal injury and property damage.
  - (2) Automobile liability: \$1,000,000.00 combined single limit per accident for bodily injury and property damage. Required only when the use of vehicles is associated with the temporary event.
  - (3) Workers' compensation and employers' compensation limits as required by the Labor Code of the State of Illinois and Employers' Liability limits of \$1,000,000.00 per accident.
- (B) The policies are to contain, or be endorsed to contain, the following provisions for general liability and automobile liability coverages:

- (1) The village, its officials, employees and volunteers are to be covered as insured as respects; liability arising out of activities performed by or on behalf of the applicant; products and services of the applicant; premises owned, leased or used by the applicant; or automobiles owned, leased, hired or borrowed by the applicant. The coverage shall contain no special limitations on the scope of protection afforded to the village, its officials, employees or volunteers.
  - (2) The applicant's insurance coverage shall be primary insurance as respects the village, its officials, employees and volunteers. Any insurance or self-insurance maintained by the village, its officials, employees or volunteers shall be excess of applicants insurance and shall not contribute with it.
  - (3) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the village, its officials, employees or volunteers.
  - (4) Coverage shall state that applicants insurance shall apply separately to each insured against whom claim is made or suite is brought, except with respect to the limits of the insurer's liability.
- (C) The applicant agrees upon receipt of a permit to indemnify, defend and hold harmless the Village of Lombard, its officers, agents, employees, representatives and their assigns, from any and all claims, lawsuits or other liabilities directly or indirectly arising from, in consequence of, or in reference to the permit granted. In connection with any such claims, lawsuits or liabilities, the village, its officers, agents, employees, representatives and their assigns, have the right to defense of counsel of their choice. The applicant shall be solely liable for all costs of such defense and for all expenses, fees, judgments, settlements and all other costs arising out of such claims, lawsuits or liabilities.

(Ord. No. 7043, § 1, passed 2-5-15)

§ 110.44 - Bond.

- (A) The applicant, prior to the issuance of any permit hereunder, shall deposit with the village treasurer a cash bond in the sum of \$500.00 for an event of three days or less, or \$1,000.00 for an event of more than three days to ensure that no damage will be done to the street, sewers, trees or adjoining property and that no dirt, paper, litter, or other debris will be permitted to remain upon the streets, adjoining property, or the site of the temporary event. Such cash bond shall be returned to the applicant upon certification by the Chief of Police that all conditions of this Chapter have been complied with upon the termination and vacation of the event.
- (B) Any applicant whose place of business or operation is located within the corporate limits of the village; and is therefore accessible to village enforcement personnel in the event damage results from the temporary event, for which a permit has been issued under the provisions of this Chapter; whose application discloses that such applicant will sponsor and/or operate the temporary event, shall be exempt from the cash bond requirement contained in this section.

(Ord. No. 7043, § 1, passed 2-5-15)

§ 110.45 - Fees.

- (A) The applicant, at the time of filing an application, shall pay to the Village Treasurer a fee or fees at the rate of \$150.00 for the first 15 attractions plus \$10.00 for each additional attraction per calendar day during which the circus or carnival is to be maintained and operated.
- (B) The applicant, at the time of filing an application, shall pay to the Village Treasurer a fee or fees at the rate of \$50.00 per calendar day during which the temporary outdoor cafe, or temporary outdoor sale or auction, or temporary special event, is to be maintained and operated. **For temporary outdoor sales or auctions in the B5 Central Business District zoning designation the applicant shall pay a fee at the rate of \$50.00 per event.**
- (C) The applicant, at the time of filing an application, shall pay to the Village Treasurer a fee or fees at the rate of \$20.00 per calendar week during which the seasonal sale of seasonal outdoor garden sale is to be maintained and operated.
- (D) Depending on the anticipated event attendance and type of event, village personnel and services, including police, fire, public works or community development, may be required at an event. Charges for all village personnel and services involved during the day(s) of the event and in the preparation of the event will be charged to the event sponsor. The village shall determine the number of personnel and the level of services necessary to ensure the safety of participants and to minimize the impact of the event on village operations and resources.
- (E) Any not-for-profit fraternal organization or other charitable, religious, governmental or civic organization, except those whose primary purpose is to make a profit, may in their application request waiver of fees hereunder. The Village Manager or his designee may waive the fees for such not-for-profit applicants whose application discloses that such organizations will sponsor or operate the temporary event.

(Ord. No. 7043, § 1, passed 2-5-15)

§ 110.46 - Inspection.

The Village Fire Chief and/or Community Development Director, or his/her designee(s), and as deemed appropriate and except where otherwise noted, shall make reasonable inspections to determine if the following conditions are met:

- (A) Adequate aisles for pedestrians, and fire separation between structure, attractions and sales areas;
- (B) Sufficient exits, marked and properly lighted;
- (C) Adequate wiring on all electrical fixtures;
- (D) Proper safeguarding of the use of any open flames;
- (E) Arrangements for the proper servicing of all areas where debris may be expected to accumulate;
- (F) All combustible decorative materials, including curtains, streamers, and cloth are rendered fireproof;

- (G) Satisfactory sanitary facilities on or near the premises on which the temporary event is to be maintained, sufficient for the public;
- (H) Adequate traffic circulation and parking provisions for patrons.
- (I) Noise levels are controlled so as not to become a nuisance to adjacent uses. At no point on the boundary of a residence district, as defined in § 155.802, shall the sound intensity level exceed the levels adopted by the Illinois Pollution Control Board, Title 35, Subtitle H, Chapter 1, Part 900 of the Illinois Administrative Code;
- (J) Adequate security and crowd control as determined by the Chief of Police;
- (K) Adequate traffic control at all entrances to public streets as determined by the Chief of Police;
- (L) Adequate sanitation facilities and maintenance of all animals part of or associated with the circus or carnival.
- (M) Lighting does not intrude upon adjacent residential properties

Each permit issued hereunder shall contain the provision that police, fire, and other authorized officials of the village shall have the right to free access to the grounds and all buildings, structures, booths, shows, and concessions, and any other attractions on such grounds to inspect and enforce compliance with the provisions of this Chapter.

(Ord. No. 7043, § 1, passed 2-5-15)

#### § 110.47 - Issuance of permit.

- (A) The Village Fire Chief, or other designated village official, shall make a report of the inspection to the Village Manager, who shall issue such permit if the report shows compliance with the provisions of this Chapter and the application otherwise meets all the requirements of this Chapter.
- (B) No more than four permits shall be issued for a single parcel of property within the same calendar year. In the case of seasonal outdoor garden sales, not more than two permits shall be issued for a single parcel of party, the total period of both permits not to exceed four months, within the same calendar year. In the case of an entity which holds a Class "P" liquor license, a single permit shall be issued each year, covering the entire Chicago Bears football season, relative to the events held pursuant to the class "P" liquor license during said Chicago Bears football season. In the case of an entity which holds a Class "J" liquor license, pursuant to subsection 112.18(B)(6) of this Code, a single permit shall be issued for September 22, 2013 and November 4, 2013, relative to the viewing events held in conjunction with said Class "J" liquor license and associated with a Chicago Bears viewing event.
- (C) In no case shall a permit be issued for a single parcel of property such that the first day a permit is valid falls within three consecutive days of the terms of a previously issued permit.
- (D) In the case of carnivals and circuses, no permit may be renewed and no permit may be issued for more than ten days. In the case of temporary outdoor cafes, temporary

special events, and of temporary outdoor sales or auctions, no permit may be renewed and no permit may be issued for more than three days. In the case of seasonal outdoor garden sales, no permit may be renewed and no permit may be issued for more than a three-month period.

- (E) Any organization may in their application request an extension of the permit term hereunder. The President and Board of Trustees may extend the permit term for such applicants whose application discloses that such organizations will sponsor or operate the temporary event. In the event that an application is received by the village for approval of a temporary event exceeding the time limits set forth herein but prior to the next scheduled Village Board meeting, the village may grant a time extension for the temporary event provided that approval is granted by the Village Manager, Director of Community Development, Village President and the Village Trustee of the district in which the temporary event is scheduled to be held.

(Ord. No. 7043, § 1, passed 2-5-15)

§ 110.48 - Revocation of permit.

- (A) Any permit issued hereunder may be revoked by the Village Manager upon any finding by the Police Chief, Fire Chief, Building Official or other authorized official of the village that any provision of this Chapter has been violated or that any other ordinance of the village or statute of the State of Illinois has been violated. Upon the finding of any such violation the Village Manager shall cause written notice of the revocation stating the reason therefore to be served upon the permittee, his authorized agent, or the manager of such temporary event. Immediately upon receipt of a written notice of revocation, the permittee shall cease all operations.
- (B) If during any inspection the Fire Chief or his designee finds any attraction to pose a danger to public safety, the Fire Chief at his discretion may immediately terminate the operation of said attraction until such time as the danger is abated. Failure to abide by the order of the Fire Chief to terminate operation of said attraction shall be a violation of the permit provisions and shall result in the revocation of the permit for the entire event.
- (C) Any permittee whose permit has been revoked or whose attraction has been terminated may, within ten days of the receipt of notice thereof, appeal to the President and Board of Trustees of the village for a hearing thereon. If no such appeal is taken within ten days as provided herein, the action of the Village Manager is final.

(Ord. No. 7043, § 1, passed 2-5-15)

§ 110.49 - Prohibitions.

No permittee shall:

- (A) Set up, permit, or operate any gambling device.

- (B) Set up, permit, or operate any lewd, lascivious, or indecent show or attraction making an indecent exposure of the person or suggesting lewdness or immorality.

(Ord. No. 7043, § 1, passed 2-5-15)

**RECOMMENDATION**

Staff requests that the ECDC review and discuss the proposed changes to Section 110. Staff will discuss the item with Lombard Town Centre and return to the ECDC for a final recommendation vote to the Village Board.