

Rec'd by Ord 246

ORDINANCE NO. 2851

TITLE: An ordinance to permit, license and regulate the placing of benches with advertising matter thereon upon the public sidewalks and parking strips within the City of Albany, and repealing all ordinances in conflict.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: PERMIT REQUIRED - DURATION

It shall be lawful to place and maintain on sidewalks and sidewalk parking strips of the city, benches for the free use and accommodation of all pedestrians and persons awaiting transportation, and whereon may be displayed the name, address and character of business, calling or enterprise of any person, firm or institution, and the City Recorder is hereby authorized to grant permits therefor. Said permits shall be for a period of one year, or a fraction thereof, and shall expire at the end of the calendar year, subject nevertheless, to the strict observance and in full compliance with the conditions set forth in this ordinance.

Section 2: PROCEDURE FOR OBTAINING PERMIT

Before the issuance of any such permit, the written and signed approval of the owner, lessee, and/or tenant of the property abutting the location of each such bench shall be obtained and filed with the City Recorder, together with the written application of the applicant, and accompanied by a description of the proposed bench, showing its size, design, and proposed location. The City Recorder may either deny or allow such permit as in his discretion shall appear to the best interest of public safety and convenience. In case the City Recorder shall deny any such permit, he shall make and keep in the records of his office a brief written statement of the reasons for such denial, and upon request shall furnish the applicant with a copy thereof, and such applicant may, within thirty (30) days after the receipt of such notice, appeal to the common council from the ruling of the City Recorder; and if he fails so to do, the decision of the City Recorder shall be deemed final.

Section 3: SIZE AND WEIGHT OF BENCHES

No bench shall be more than 50 inches high or more than 2 feet 6 inches wide, nor more than 6 feet long overall. To discourage upsetting and vandalism, benches shall be of heavy construction, and shall weigh approximately 400 lbs., or shall be bolted or otherwise secured in place in such a manner as to prevent tipping or upsetting.

Section 4: INDEMNITY INSURANCE OR BOND

Before installing any such bench or benches, the applicant shall obtain and lodge with the City Recorder as to all such benches an indemnity bond and/or insurance policy issued by a reliable bonding or insurance company conditioned that the City of Albany, the officers and employes of said City, the abutting property owners or owner, or tenants, shall be held harmless as respects any claim or claims for damages to persons or property that might result through the placing and/or maintenance of such bench or benches, the amount of such bond or insurance policy to depend upon the number of bench permits covered thereby in accordance with the following schedule:

From 1 to 10 bench permits	\$ 5,000 to \$ 10,000
From 11 to 50 bench permits	10,000 to 20,000
From 51 to 100 bench permits	20,000 to 40,000
Over 100 bench permits	50,000 to 100,000

Section 5: MAINTENANCE OF BENCHES

All such benches shall be kept and maintained in good and substantial state of repair, and shall be painted frequently enough to keep them sightly and attractive. The City Council shall reserve the right to designate the lettering of an area not exceeding one square foot in order to denote city sponsored special direction.

Section 6: APPLICATION FEE

Every application for a permit to install any such bench shall be accompanied by a fee of \$2.50, which shall cover the whole or remainder of the then current calendar year.

Section 7: OBSCENITY

It shall be unlawful to place or knowingly permit to remain on any such bench any writing, inscription, sign, symbol, illustration or matter or thing of whatsoever kind or nature which is of an obscene, indecent, offensive or unsightly character, or advertisements for any intoxicating beverage; and all persons responsible for the installation and/or maintenance of any such bench are hereby charged with the duty of keeping such bench unblemished and free of offensive matter or thing, and for failure so to do, the permit issued for such bench shall be cancelled or subject to summary cancellation by the City Recorder, (subject to appeal to the council in time and manner as provided in paragraph (1) hereof.)

Section 8: REVOCATION OF PERMIT

Any permit granted under the provisions of this article may be revoked, or renewal thereof denied for any violation of any of the provisions of this article for any fraud or misrepresentation in the

application, or for any reason which would have been ground for denial of the application, and if the abutting owner withdraws his consent to the continued maintenance of any bench, and gives written notice thereof to the City Recorder, then at the expiration of the current term of the permit, a renewal of the permit shall be denied. Any permit issued under this article shall be denied, cancelled and revoked if the permittee shall fail to install the bench within sixty (60) days after the issuance of the permit.

Section 9: REMOVAL OF BENCHES

Upon the termination of any such permit, or when in the judgment of the City Recorder any such bench shall interfere with the making of any public improvement, or when in the judgment of said officer any such bench shall become or constitute a hazard to the safety of persons or vehicles using the sidewalk or street in the immediate vicinity of such bench, the person or persons responsible for the installation and/or maintenance of such bench shall at his or their own sole risk and expense remove such bench and shall leave the site thereof in a clean and sightly condition, and in as good state of repair as the same was in when such installation was made, all in a manner satisfactory to the City Recorder. If the permittee shall fail to remove any such bench within thirty (30) days after the termination of such permit, the City Recorder may remove such bench from the street, all at the sole risk of the permittee, and he shall pay to the City of Albany a penalty of FIVE DOLLARS (\$5.00) to cover the cost of such removal, all this in addition to any other remedy provided by law for the violation of this ordinance.

Section 10: SEPARABILITY OF PROVISIONS

If any phrase, sentence, or portion hereof shall be declared invalid by any court of competent jurisdiction, the remainder of the ordinance shall nevertheless be in force and effect as if the same had been passed without such invalid phrase, sentence, or portion thereof, and licenses issued hereunder shall be deemed valid to the same extent that they would have been valid if the ordinance had originally been passed without such invalid portion.

Section 11: PURPOSE OF ORDINANCE

The purpose of this ordinance is to add to the convenience and comfort of the public in the use of the streets, by providing, subject to the regulations of the common council, benches for the free use of the public, and nothing herein contained shall be construed as permitting the placing of advertising matter upon any public property other than the public conveniences licensed by this ordinance.

Section 12: PENALTY

Any person who shall place any bench upon any street, sidewalk, or parking strip without first obtaining a permit as in this ordinance provided, or any person who shall obtain three or more of such permits or who shall place three or more of such benches upon any sidewalk or parking strip without first obtaining a license as herein provided, or any person who shall violate any provision of this ordinance, shall, upon conviction of any such violation, be punished by a fine not exceeding TWO HUNDRED DOLLARS (\$200.00).

Section 13: ORDINANCES REPEALED

All ordinance and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Passed by the Council: July 8, 1959

Approved by the Mayor: July 8, 1959

W. R. Subj. [Signature]
Mayor

Effective Date: August 7, 1959

ATTEST:

[Signature]
City Recorder