

Staff Report

**PLACEMENT OF TEMPORARY SIDEWALK SIGNS**

September 28, 2010

**Background**

On March 2, 2010, the City Council directed Staff to explore a possible permitting process to allow temporary sidewalk signs in the Main Street Cultural District. It was believed that rather than to immediately allow these signs in all commercial areas, it would be advisable to first try one area as an experiment to determine how this change will work.

As you will recall the Ames Municipal Code currently prohibits the placement of signs on any City property, including sidewalks and other right-of-way areas. Section 5.701 of Chapter 5, Division VII, of the Ames Municipal Code provides the intent of the sign regulations as follows:

- (1) Protecting property values within the City of Ames
- (2) To prevent the occurrence of urban blight and slum conditions
- (3) To protect the general public from damage and injury which may be caused by the faulty and unregulated use of signs
- (4) To prevent any unreasonable appropriation of the public domain, its open spaces, streets, and ways to private use
- (5) To restore, preserve, and promote aesthetic character in the City of Ames

In March of 2008, the City Manager sent a letter to the Ames Chamber of Commerce asking that the Chamber provide its assistance in notifying business owners/managers that temporary or portable signs may not be placed in the public right-of-way. This letter was used by the Inspections Division as a handout to businesses that had placed a sidewalk sign in the public right-of-way.

Recently, there has been an outbreak of sidewalk signs being placed in the public right-of-way. It was brought to the City Manager's attention that there was a problem with habitual violation of the sign ordinance, which prohibits these signs from being placed in the public right-of-way. The City Manager then directed the Inspections staff to update the earlier letter being distributed to businesses and to prepare information for the Council regarding the current situation and what options might be available to remedy the problem of habitual violation of the sign ordinance. After staff's presentation to the City Council regarding options, a motion was made directing staff to meet with the Main Street Cultural District to explore a possible permitting process to allow temporary signs in that area.

A meeting was held with the Main Street Cultural District representatives to discuss the possibility of allowing sidewalk signs in the Cultural District area and to see what suggestions they had. They reviewed a sidewalk sign permit application as well as other documents, such as a sample site plan, a sample permission letter, an indemnification agreement, and a sample ordinance that were developed in accordance with the process being utilized by the City of Cedar Falls.

The Main Street Cultural District made recommendations, and those recommendations have been incorporated into this proposal. One of the requests made by the Cultural District was that the City departments work together to streamline the process to fit well with the other permits, such as the sidewalk café permit. As a result of that request, the City Clerk, City Attorney, Risk Manager, City Manager and Neighborhoods Inspector met to make sure that the proposal brought forward to the Council would be as streamlined as possible.

### **The Proposal**

After receiving feedback from representatives of the Main Street Cultural District and the various City departments who might be involved with the permitting and enforcement of this revised ordinance, staff is offering an option that would allow the placement of temporary sidewalk signs in the public right-of-way with the following conditions:

- Temporary sidewalk sign would be allowed in the “DSC” Zoning District (Downtown Service Center). The “DSC” Zoning District has boundaries that are very similar to those of the Main Street Cultural District and would be easier to enforce by the staff.
- A Temporary Sidewalk Sign Permit Application would be required to be completed and submitted to the City Manager’s Office (also forwarded to Inspections office for review and approval).
- The Temporary Sidewalk Sign Application will require the following to be provided:
  - Diagram (Site Plan)
  - Description of the sign
  - Proof of Control of the Establishment
  - Indemnification Agreement
  - General Liability Insurance (naming the City of Ames as an additional insured)
  - Permit Fee of \$35
- A minimum of 4 feet of unobstructed public sidewalk between the building face and sign or between the sign and parking meters will be required.
- A minimum distance of 2 feet from the curb to the sign will be required.
- A Temporary Sidewalk Sign will not be allowed to be attached to any public sidewalk or public fixture.
- A Temporary Sidewalk Sign shall not exceed 2.5 feet in width and 4 feet in height.
- No Temporary Sidewalk Sign may be internally or externally illuminated.
- A Temporary Sidewalk Sign Permit will be valid for one year and may be renewed by the expiration date.

- The General Liability Insurance amount required shall be \$500,000, which is consistent with the Sidewalk Café Permit requirement.
- The City retains the right to terminate any approved permit upon seven 7 days written notice to the property owner should removal of the obstruction be necessary to preserve public safety.
- A Temporary Sidewalk Sign must be removed from the public right-of-way each day.
  - at closing of the business
  - at 10:00 p.m.
  - or at some other time of the City Council's choosing

The Main Street Cultural District indicated that its preference would be that the signs be removed at the closing of the business day for each entity because so many of the establishments have different hours that it would be more fair to the businesses that are open late. However, City staff is concerned that the risks associated with having these signs on the sidewalks past 11:00 p.m. or 12:00 midnight greatly outweigh the benefits obtained from the advertising because of the possibility of theft, damage, and defacement related to these signs. **Therefore, staff will need City Council direction regarding this issue before an ordinance is drafted.**

- No more than one Temporary Sidewalk Sign may be placed:
  - in front of any single storefront
  - in front of any single building
  - within 50 feet (or some other distance) of any other Temporary Sidewalk Sign or ground sign

There has been concern expressed by staff regarding the possibility of too many signs cluttering the sidewalks. In order to prevent this from occurring, it may be necessary to limit the number of signs allowed within a certain radius of one another or to a parcel of land, building or storefront. However, the current Municipal Code does not

define “storefront” or “building”. If this type of method is used to regulate placement of these signs, definitions need to be incorporated as well. **Staff is asking that Council provide direction as to its preference regarding placement of these signs. Any method selected must be objective and enforceable.**

- **Also, consideration should be given to exactly who should have the ability to have these signs on the sidewalk.** Should it just be those businesses that actually front the sidewalk, or should the upstairs businesses have that same opportunity as well? Alternatively, should the City regulate the location only and allow the property owners and landlords to decide which businesses on the property may apply for the sign as long as the City’s requirements for placement are met?

**The City Council should remember that the location, time allowed in the right-of-way, and size of the signs may be regulated, but content may not.**

### **City Staff Comments**

If the City Council decides to revise the Municipal Code to allow the placement of temporary signs on sidewalks in the Downtown Service Center, a motion directing the City Attorney to draft such an ordinance reflecting the requirements outlined in this report would be in order. However, before making such a motion, the following three policy issues require Council direction:

#### **When should the sidewalk signs be required to be removed?**

- at closing of the business day for each entity
- at 10:00 p.m.
- or at some other time of the City Council's choosing

#### **What is the proper separation between sidewalk signs?**

- in front of any single storefront
- in front of any single building/parcel
- within 50 feet of any other Temporary Sidewalk Sign or ground sign

-some other separation distance

**Who should be allowed to apply for a sidewalk sign permits?**

- only businesses with sidewalk frontage
- any business in a building that has sidewalk frontage
- only one business per parcel, with permission of property owner