

## ARTICLE 740 STREET AND SIDEWALK VENDORS

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### 740.01 DEFINITIONS

For the purposes of this ordinance the following definitions shall apply:

1. **Food** is defined as solid food and beverages allowed to be sold in accordance with this ordinance.
2. **Motor vehicle** is defined as any vehicle used for the displaying, storing, or transporting of articles offered for sale by a vendor, which is required to be licensed and registered by the department of motor vehicles.
3. **Person** is defined as any natural individual firm, trust, partnership, association, or corporation, in his or its own capacity or an administrator, conservator, executor, trustee, receiver, or other representative appointed by a court. Whenever the word "person" is used in any section of this ordinance prescribing a penalty or fine as applied to partnerships or associations, the word shall include the partners (both general and limited) or members thereof and such word as applied to corporations shall include the offices, agents, or employees thereof who are responsible for any violation of said section.
4. **Pushcart** is defined as a wheeled vehicle propelled solely by a single human.
5. **Stand** is defined as any table, showcase, bench, booth, rack, pushcart, or any other wheeled vehicle or fixture which may be removed without the assistance of a motor and which is not required to be licensed and registered by the Department of Motor Vehicles, used for displaying, storing or transporting of articles offered for sale by a vendor.
6. **Vending** is defined as the act of selling, offering for sale, transferring, or offering to transfer to another for pecuniary gain.
7. **Vendor** is defined as any person engaged in the selling or offering for sale of food, beverages, services or merchandise on the public streets, or sidewalks from a stand or motor vehicle. (12870 §1 10/5/88; 15089 §1 8/21/13)
8. **Notice of violation** is defined as a written document issued to a person in violation of a city ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action. (15089 §1 8/21/13)
9. **Private Property** is defined as any land and the improvements thereon owned by any person and includes front, side and rear yards; vacant lots, buildings and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial or commercial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure. (15089 §1 8/21/13)

10. **Public Officer** is defined as any police officer, authorized inspector, or public official sworn to enforce the City Ordinances. (15089 §1 8/21/13)

11. **Sidewalk Area** is defined as the public right-of-way between the property line and the curb line or the established edge of the roadway. (15089 §1 8/21/13)

12. **Violation Ticket** is defined as a ticket issued by a police officer or public officer to a person who violates a provision of this Article. (14365 §1 3/7/06; 15003 §1 6/20/12; 15089 §1 8/21/13)

13. **Vendor License Review Committee** is defined as an appeal body, whose members are appointed by the Director of Community and Economic Development Director or designee, who reviews vendor applications, issues or denies vendor licenses and hears appeals by vendors who had licenses suspended or revoked. The Committee membership will include the following: City of Allentown Director of the Department of Community and Economic Development (Chair) or designee, Business Development Manager or designee, two (2) Allentown business owners and one (1) City resident. (15089 §1 8/21/13)

14. **Exception** is defined as a rule or documented ordinance requirement that does not apply in a particular situation or circumstance. (15089 §1 8/21/13)

15. **Appeal Committee** is defined as an appeal body that is made up of the City of Allentown Director of the Department of Finance and Administration, Director of the Department of Public Works and Director of the Bureau of Planning and Zoning and who hears appeals by vendor applicants who are denied a license or question application fees that have been assessed. (15089 §1 8/21/13)

#### **740.02 LICENSE REQUIRED**

It shall be unlawful to sell or offer for sale any food, service or merchandise on any street, sidewalk, or parking lot within the City from any stand, pushcart or motor vehicle unless a street and sidewalk vendor license has been issued by the City of Allentown Department of Community and Economic Development, at which time a license tag shall be furnished, upon which license tag shall be the words describing the kind of vendor, the year for which the license is paid, and the following words, "The issuance of this license does not constitute an endorsement by the City of Allentown of any article sold pursuant to the terms of this license." Such license tag shall be, at all times during the period for which the license is paid, securely affixed and attached in a conspicuous place upon the stand, pushcart or motor vehicle used in the business by the vendor. (12876 §1 10/5/88; 15089 §1 8/21/13)

Vendors shall be required to obtain a Business License prior to opening and shall be required to pay Occupational Privilege Tax for all employees. When obtaining a Business License, stationary vendor locations shall be approved through the City of Allentown Zoning Office. Those selling food shall be required to obtain a Health License. A Health License does not give a vendor privilege to sell food in prohibited locations as described in Section 740.07. (15089 §1 8/21/13)

#### **740.03 SPECIAL EVENTS, PROGRAMS AND GEOGRAPHICAL AREAS**

A. Licenses issued to vendors shall not be applicable within certain areas of the City designated by the Director of Community and Economic Development during specific time periods designated for authorized special events. The areas so designated shall not encompass more than five (5%) percent of the total land area of the City; the total of the time periods so specified shall not exceed thirty (30) days in any year. (15089 §1 8/21/13)

B. For specific City authorized events and programs, the Director of Community and Economic Development or designee may grant written permission for exceptions to the provisions of Section 740.02 regarding the requirement of a vendor license, 740.07 regarding vending locations, Section 740.05 regarding vending fee and Section 740.08 regarding merchandise vended and vending hours according to written guidelines for the specific event. (12876 §1 10/5/88; 15089 §1 8/21/13)

C. For specific geographical areas of the City, the Director of Community and Economic Development or designee may grant written permission for exceptions to 740.07 regarding vending prohibited in certain locations, 740.08 regarding limitations on vending and 740.09 regarding prohibited conduct according to written guidelines for the geographical areas. (15089 §1 8/21/13)

1. Name, daytime and evening phone number, home and business address of the owner of the vending business, stand, pushcart or motor vehicle to be used in the operation of the vending business. (15089 §1 8/21/13)

2. A description of the type of food, service, or merchandise to be sold.

3. The place or places where applicant proposes to vend.

4. The days and hours of operation. (15089 §1 8/21/13)

5. A description, dimensions and photograph, blueprint or drawing of any stand, pushcart or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business. Include in the description any tables, crates, cartons, racks or other devices to be used to increase the displaying capacity of the stand, pushcart or motor vehicle. Photograph shall be of standard motor vehicle in operational mode. Stand or pushcart may not have dimensions which exceed 4 feet in width, 8 feet in length and 8 feet in height without additional encroachment approval from the City of Allentown Bureau of Engineering. (15089 §1 8/21/13)

6. Submission of a current liability insurance policy with a \$1,000,000 coverage that must remain active during the term of the vendor license. City of Allentown must be listed as an additional insured. (15089 §1 8/21/13)

7. A signed lease from the property owner if the vendor plans to operate on commercial private property. (15089 §1 8/21/13)

#### **740.05 FEE**

A. A non-refundable application fee of Fifty (\$50) Dollars shall be required from all applicants. An approved vendor shall be required to pay an additional Two Hundred Fifty (\$250) Dollars prior to receiving their license.

B. No fee shall be charged of any member of a chartered nonprofit charitable service or youth organization for vending at City authorized events or programs, but any such member engaged in vending as defined herein shall obtain a license as aforesaid. (12870 §1 10/5/88)

#### **740.06 ISSUANCE**

The Director of Community and Economic Development or designee shall determine whether to approve or deny the license application based on recommendations by the Vendor License Review Committee. The Director or designee and the Vendor License Review Committee shall consider the standards set forth in Sections 740.07 through 740.10, in determining whether to grant a license. If the issuance of the license is approved, the Department shall issue the license. If the license is denied, the applicant shall be provided with a statement of the reason therefore, which reasons shall be entered in writing on the application. The applicant shall be entitled to a hearing, pursuant to Section 740.13. (12870 §1 10/5/88; 15089 §1 8/21/13)

#### **740.07 VENDING PROHIBITED IN CERTAIN LOCATIONS**

Vending is prohibited in the following locations, unless the vendor is granted an exception by the Director of Community and Economic Development or designee: (The securing of a Health License per Section 740.02 does not pre-empt this section.) (15089 §1 8/21/13)

1. Within a City park.
2. On the streets adjacent to or bordering a City park. (15089 §1 8/21/13)
3. From a publicly-owned parking lot or metered or controlled parking space, unless the vendor is granted an exception by the Director of the Parking Authority or designee and the Director of Community and Economic Development or designee. (15089 §1 8/21/13)
4. Within one hundred (100') feet of any property used for school purposes (elementary and secondary) during school hours.
5. On any sidewalk less than six (6') feet in width.
6. Within fifty (50') feet of any driveway entrance to a police or fire station, or within fifteen (15') feet of any other driveway.
7. Within fifteen (15') feet of any bus stop zone.
8. Within fifteen (15') feet of the pedestrian crosswalk at any intersection, or designated pedestrian crossing point. (15089 §1 8/21/13)
9. Within fifteen (15') feet of any handicapped parking space, or access ramp. (15089 §1 8/21/13)
10. Within any private property without the written approval of the property owner and the City Zoning Office.

11. Within any sidewalk six (6') feet or more in width without the written approval of the property owner responsible for maintenance of the sidewalk and/or right-of-way area to be obstructed, the City Zoning Office approval and any encroachment permit required by the Bureau of Engineering. (15089 §1 8/21/13)

12. Within a residential zoning district (excluding motor food vehicles when the vendors have received written permission from the Director of Community and Economic Development or designee). (15089 §1 8/21/13)

#### **740.08 LIMITATIONS ON VENDING**

Vending shall be subject to all rules and regulations in this ordinance and in addition:

1. No merchandise or service shall be vended or displayed other than food and fresh cut flowers except upon written permission by the Director of Community and Economic Development or designee. (15089 §1 8/21/13)

2. Vending shall be regulated by operating hours. General hours of operation throughout the City shall be determined by the Director of Community and Economic Development. Special exceptions to the established operating hours shall only be permitted upon written permission by the Director of Community and Economic Development or designee. (15089 §1 8/21/13)

3. Merchants may not transact business on the public right-of-way in an area in front of their business unless the merchant is granted an exception from the Director of Community and Economic Development or designee. (15089 §1 8/21/13)

4. All approved vendors utilizing City sidewalks for vending shall establish themselves, their displays and the product they are holding out for sale as close as is reasonably possible to the curb line. At no time shall a vendor interfere with or obstruct the free passage of pedestrians upon a sidewalk. Five (5') feet of clearance must be maintained at all times for pedestrian right-of-way. (15089 §1 8/21/13)

#### **740.09 PROHIBITED CONDUCT**

No vendor shall:

1. Leave any stand, pushcart or motor vehicle unattended. (15089 §1 8/21/13)

2. Store, park, or leave any stand or pushcart overnight on any street or sidewalk, or park any motorized vendor vehicle other than in a lawful parking space, in conformance with City and State parking regulations. (15089 §1 8/21/13)

3. Sell food for immediate consumption unless he has available for public use his/her own trash and recycling receptacle. (15089 §1 8/21/13)

4. Allow or keep any animals in the stand, pushcart or motor vehicle. (15089 §1 8/21/13)

5. Leave any location or vending zone without first picking up, removing, recycling and disposing of all trash and refuse remaining within a thirty (30') foot radius. Each vendor shall be responsible for maintaining a thirty (30') foot radius trash and refuse clear area around the stand, pushcart or motor vehicle. Said area shall overlap other vendor clean-up areas and no vendor shall leave a location, or vending zone, without cleaning up as required. (15089 §1 8/21/13)

6. Allow any items relating to the operating of the vending business to be placed anywhere other than in, on, or under the stand, pushcart or motor vehicle. (15089 §1 8/21/13)

7. Set up, maintain, or permit the use of any table, crate, carton, rack, or any other device to increase the selling or displaying capacity of his/her stand, pushcart or motor vehicle, where such items have not been described in his/her application. (15089 §1 8/21/13)

8. Solicit or conduct business with persons in motor vehicles located on traffic lanes of public streets and highways.

9. Sell anything other than that for which he is licensed to vend.

10. Use any noise-making device.

11. Allow the stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property.

12. Allow any animals to remain within twenty-five (25') feet of a stand for a period longer than necessary to complete a sale to the person having possession, or control of said animal.

13. No vendor vending from a motor vehicle shall:

A. Conduct his/her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles.

B. Stop, stand or park his/her motor vehicle upon any street, or permit to remain there except on the approved roadway at the curb for the purpose of vending therefrom; or (15089 §1 8/21/13)

Stop, stand or park his/her motor vehicle upon any street for the purpose of selling, or sell on any street under any circumstances during the hours when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance, except by special permission for City-sponsored or supported events that result in the closing of that thoroughfare.

C. Stop, stand or park his/her motor vehicle within thirty (30') feet of any intersection, except that vehicles vending products likely to attract children as customers shall park curbside when stopping to make a sale, as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic.

D. Vend anywhere prohibited by Section 740.07. (12870 §1 10/5/88)

14. Operate on commercial private property without a signed lease from the property owner. A copy of the lease shall be included with the application. Vendors cannot operate on residential private property. (15089 §1 8/21/13)

15. Use sidewalk marketing signs on City sidewalks or public parking spaces. (15089 §1 8/21/13)

#### **740.10 HEALTH AND SANITATION REQUIREMENTS FOR FOOD VENDING**

Vendors of food shall comply with all applicable local ordinances, state laws, and federal statutes pertaining to food safety as enforced by the Bureau of Health and other authorized regulatory agencies. (12876 §1 10/5/88; 15089 §1 8/21/13)

#### **740.11 LICENSE EXPIRATION AND RENEWAL**

A. All annual licenses issued under the provisions of this ordinance shall expire on December 31 in the year of issue. (12870 §1 10/5/88; 15089 §1 8/21/13)

B. All licenses are valid for the entire licensing period unless revoked or suspended prior to expiration. (15089 §1 8/21/13)

C. Application to renew a license shall be made not later than thirty (30) days before the expiration of the current license. (12870 §1 10/5/88; 15089 §1 8/21/13)

#### **740.12 LICENSE SUSPENSION OR REVOCATION (15089 §1 8/21/13)**

A. The City may suspend or revoke a license without providing any rebate of fees to the license holder if the license holder: (15089 §1 8/21/13)

1. Commits fraud or falsifies information contained in the application for the license; (15089 §1 8/21/13)
2. Commits fraud or falsifies information in the course of carrying on the business of vending; (15089 §1 8/21/13)
3. Conducts the licensed business in such manner as to create a public nuisance, or constitute a danger to the public health, safety, welfare or morals; (15089 §1 8/21/13)
4. Is issued a violation ticket for violation of this article; (15089 §1 8/21/13)
5. Has a display stand, pushcart or motor vehicle which differs from that submitted in the photograph to the City; (15089 §1 8/21/13)

6. Has a display stand, pushcart or motor vehicle whose dimensions substantially differ from those approved by the City; (15089 §1 8/21/13; 15089 §1 8/21/13)

7. Fails to keep the area surrounding the stand, pushcart or motor vehicle clear of trash, debris, snow or ice for a distance of thirty (30') feet; (15089 §1 8/21/13)

8. Uses a stand, pushcart or motor vehicle for the purpose of selling merchandise; (15089 §1 8/21/13)

9. Keeps animals near the stand, pushcart or motor vehicle; (15089 §1 8/21/13)

10. Uses parking meters, utility poles, trees, or property other than the vendors own stand, pushcart or motor vehicle to advertise in any manner; (15089 §1 8/21/13)

11. Fails to remove the stand, pushcart or motor vehicle at the end of every business day; (15089 §1 8/21/13)

12. Fails to operate from the site specified by the City (excluding motor vehicle vendors); (15089 §1 8/21/13)

13. Fails to display the license issued at all times while vending; (15089 §1 8/21/13)

14. Or in any other manner violates any provision of this section or violates any of the terms and conditions of the license issued. (15089 §1 8/21/13)

B. When a license is suspended or revoked, vending operations shall immediately cease. Whenever a license is suspended or revoked, the holder of the license shall be afforded an opportunity for hearing within twenty (20) days of receipt of a request for hearing. (15089 §1 8/21/13)

C. When a license is suspended or revoked, the holder of the license or the person in charge shall be notified in writing that the license is, upon service of the notice, immediately suspended or revoked and that an opportunity for hearing will be provided if a written request for hearing is filed with the Vendor License Review Committee by the holder of the license within ten (10) days after notice of the license being suspended or revoked is mailed to the holder of the license's last known address. When such a request is filed, the Vendor License Review Committee shall notify the license holder of the time, place and nature of the hearing; shall specify the legal authority and jurisdiction under which the hearing is to be held; shall reference the particular section of the Ordinance or regulations involved; shall set forth a short and plain statement of the matters at issue; and shall provide the license holder with a date for an opportunity to respond to any charges and present evidence and argument on all issues involved. If no written request for hearing is filed within ten (10) days, the suspension or revocation is sustained. The Department of Community and Economic Development may end the suspension or revocation at any time if reasons for suspension no longer exist. (15089 §1 8/21/13)

D. A notice provided for in this article is properly served by handing it to the holder of the license, by handing it to an adult member of the household or other person in charge of the residence at the residence of the holder of the license, by leaving or affixing the notice to the vendor's stand, pushcart or motor vehicle, by handing it at any office or usual place of business of the holder of the license, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the address of record for the holder of the license. (15089 §1 8/21/13)

#### **740.12 LICENSE SUSPENSION OR REVOCATION (15089 §1 8/21/13)**

A. The City may suspend or revoke a license without providing any rebate of fees to the license holder if the license holder: (15089 §1 8/21/13)

1. Commits fraud or falsifies information contained in the application for the license;
2. Commits fraud or falsifies information in the course of carrying on the business of vending;
3. Conducts the licensed business in such manner as to create a public nuisance, or constitute a danger to the public health, safety, welfare or morals;
4. Is issued a violation ticket for violation of this article;
5. Has a display stand, pushcart or motor vehicle which differs from that submitted in the photograph to the City;

6. Has a display stand, pushcart or motor vehicle whose dimensions substantially differ from those approved by the City;
7. Fails to keep the area surrounding the stand, pushcart or motor vehicle clear of trash, debris, snow or ice for a distance of thirty (30') feet;
8. Uses a stand, pushcart or motor vehicle for the purpose of selling merchandise;
9. Keeps animals near the stand, pushcart or motor vehicle;
10. Uses parking meters, utility poles, trees, or property other than the vendors own stand, pushcart or motor vehicle to advertise in any manner;
11. Fails to remove the stand, pushcart or motor vehicle at the end of every business day;
12. Fails to operate from the site specified by the City (excluding motor vehicle vendors);
13. Fails to display the license issued at all times while vending;
14. Or in any other manner violates any provision of this section or violates any of the terms and conditions of the license issued.

B. When a license is suspended or revoked, vending operations shall immediately cease. Whenever a license is suspended or revoked, the holder of the license shall be afforded an opportunity for hearing within twenty (20) days of receipt of a request for hearing.

C. When a license is suspended or revoked, the holder of the license or the person in charge shall be notified in writing that the license is, upon service of the notice, immediately suspended or revoked and that an opportunity for hearing will be provided if a written request for hearing is filed with the Vendor License Review Committee by the holder of the license within ten (10) days after notice of the license being suspended or revoked is mailed to the holder of the license's last known address. When such a request is filed, the Vendor License Review Committee shall notify the license holder of the time, place and nature of the hearing; shall specify the legal authority and jurisdiction under which the hearing is to be held; shall reference the particular section of the Ordinance or regulations involved; shall set forth a short and plain statement of the matters at issue; and shall provide the license holder with a date for an opportunity to respond to any charges and present evidence and argument on all issues involved. If no written request for hearing is filed within ten (10) days, the suspension or revocation is sustained. The Department of Community and Economic Development may end the suspension or revocation at any time if reasons for suspension no longer exist.

D. A notice provided for in this article is properly served by handing it to the holder of the license, by handing it to an adult member of the household or other person in charge of the residence at the residence of the holder of the license, by leaving or affixing the notice to the vendor's stand, pushcart or motor vehicle, by handing it at any office or usual place of business of the holder of the license, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the address of record for the holder of the license.

#### **740.13 APPEAL, NOTICE AND HEARING (15089 §1 8/21/13)**

Any person aggrieved by the action of the Department of Community and Economic Development or the Vendor License Review Committee in the denial of the license as provided in Section 740.06 or in the assessing of the fee as provided in Section 740.05 shall have the right of appeal to the Appeal Committee made up of the City of Allentown Director of the Department of Finance and Administration, Director of the Department of Public Works and Director of the Bureau of Planning and Zoning. An appeal shall be requested by filing with the Appeal Committee within ten (10) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Appeal Committee shall set a time and place for a hearing on such appeal and notice of the hearing shall be given to the appellant in the same manner as provided in Section 740.12 D. The decision and order of the Appeal Committee on such appeal shall be final and conclusive. (12870 §1 10/5/88; 15089 §1 8/21/13)

#### **740.14 TRANSFER AND DISPLAY OF LICENSE**

No license issued under the provisions of this section shall be used at any time by any person other than the one to whom it was issued or that person's employee. A license holder or his employee shall display the license at all times while that person is vending. Failure to do so shall be considered a violation of this Article and/or cause for revocation of such license. Such revocation shall not entitle the former license holder to any rebate on fees paid. (15089 §1 8/21/13)

## 740.15 REGULATIONS

The City may publish and post any regulations governing the procedures and enforcement of any provisions of this Article. (15089 §1 8/21/13)

## 740.98 SEVERABILITY

The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part. (12870 §2 10/5/88)

## 740.99 ENFORCEMENT (15089 §1 8/21/13)

### A. Penalties

1. Any violation of the provisions of this Article may be cause for a citation, a violation ticket and/or a notice of violation to be issued to the violator.

2. A notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it to an adult member of the household or other person in charge of the residence at the residence of the person to be served, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

3. Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

4. A public officer is authorized and empowered to cause a violation to be corrected.

5. If the City has affected the correction of the violation, the cost thereof may be charged to the owner of the property, tenant or offending party. The cost shall be determined by the Director of Community and Economic Development or designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred.

### 6. Violation Ticket Appeals Process

a. A person in receipt of a violation ticket may appeal to the Hearing Officer designated by the Director of Community and Economic Development or designee by filing a request within ten (10) days of receipt of the violation ticket.

b. The Hearing Officer, designated by the Director of Community and Economic Development may uphold the Appeal, deny the Appeal or may modify the violation ticket and/or any associated costs, fines or penalty amounts.

### 7. Violation Ticket Fines

a. Violation tickets shall be issued in the amount of One Hundred (\$100) Dollars.

b. Any person who receives a violation ticket for any violation of this Article, may within ten (10) days, admit the violation, waive a hearing and pay the fine in full satisfaction, as indicated on the violation ticket.

### 8. Violation Ticket Penalties

a. If the person in receipt of an one hundred (\$100) Dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Twenty-five (\$25) Dollar penalty for days eleven (11) through twenty (20).

b. Failure of the person to make payment within twenty (20) days shall make the person subject to a citation.

### 9. Citation Fines



a. Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this Article, or of any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction in a summary proceeding, be ordered to pay a fine not less than One Hundred (\$100) Dollars, nor more than One Thousand (\$1000) Dollars on each offense or imprisoned no more than ninety (90) days, or both.

b. The Magisterial District Judge may order the violator to make restitution for damage to any real or personal property or for any remediation or abatement expense.

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## ARTICLE 741 STREET AND SIDEWALK REGULATIONS

- 741.01 Definitions
- 741.02 Obstructing Crossings by Trains
- 741.05 Removal of Snow and Ice
- 741.06 Spitting on Sidewalk
- 741.08 Consumption of Alcohol on Streets and Sidewalks
- 741.09 Enforcement
- 741.10 Regulations
- 741.11 Violation Ticket Appeals Process
- 741.12 Severability (14365 § 3/7/06)
- 741.99 Fines and Penalties

### CROSS REFERENCES

Power to Prohibit Streets Obstructions - 3rd Class §2403 (16) - (53 P.S. §37403 (16))

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Article 741.01, Parades or Assemblages; Permits was deleted by Ordinance No. 13352 passed on the 22nd day of September, 1995. (2598 §1 4/1/30; 13352 §1 9/22/95; 15003 §1 6/20/12)

### 741.01 DEFINITIONS

The following words, terms and phrases when used in this article shall be defined as follows, unless the context clearly indicates otherwise:

1. **Notice of violation** is a written document issued to a person in violation of a city ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.
2. **Person** means every natural person, firm, corporation, partnership, association, or institution.
3. **Private Property** means any land and the improvements thereon owned by any person and includes front, side and rear yards; vacant lots, buildings and other structural improvement; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial or commercial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.
4. **Public Officer** means any police officer, authorized inspector, or public official sworn to enforce the City Ordinances.
5. **Sidewalk Area** means the public right-of-way between the property line and the curblin or the established edge of the roadway.
6. **Violation Ticket** is issued by a police officer or public officer to a person who violates a provision of this Article. (14365 §1 3/7/06; 15003 §1 6/20/12)

### 741.02 OBSTRUCTING CROSSINGS BY TRAINS

No person shall obstruct any street crossing within the City limits by locomotives or cars standing, moving or shifting upon any railroad track for a longer period than five (5) minutes. No person shall keep any gates erected at grade crossings closed for a longer period at any one time than five (5) minutes. Before again closing, full opportunity shall be given to all persons and vehicles to cross the railroad tracks that may be waiting to do so. (509 §1 5/29/17)

### 741.05 REMOVAL OF SNOW AND ICE

A. All persons owning, controlling or occupying any private property, premises, lot or tract of land adjoining or fronting upon any of the streets of the City shall remove snow and ice from the sidewalk area or footway of such premises within ten (10) hours after it shall have ceased snowing, sleeting or raining as reported by the National Weather Service at the ABE Airport. It shall be considered compliance with this section if a cleared portion three (3') feet in width shall have been made upon such sidewalk or footpath. (12616 §1 8/15/84; 14365 §1 3/7/06; 15003 §1 6/20/12)

B. No person shall remove snow or ice from private property and put, place, deposit or cause to be put, placed or deposited, snow or ice so removed upon the right-of-way of any street. (15003 §1 6/20/12)

C. No person shall remove or cause to be removed snow or ice from any sidewalk or footway and put, place, deposit or cause to be put, placed or deposited, snow or ice so removed upon that portion of the street normally used for the travel of vehicles. (15003 §1 6/20/12)

D. This section shall not be in force and effect in areas where curbside parking is prohibited, provided it is not a vehicle travel lane or there is no available private property upon which to put, place or deposit snow or ice so removed. (15003 §1 6/20/12)

#### **741.06 SPITTING ON SIDEWALK**

No person shall spit upon any paved sidewalk or footpath within the City. (Ordinance passed 5/14/08)

#### **741.08 CONSUMPTION OF ALCOHOL ON STREETS AND SIDEWALKS**

A. No person shall drink or consume an alcoholic beverage or possess, with the intent to drink or consume, an open container containing an alcoholic beverage in any public place except at a party, function or activity for which a special activity or sidewalk cafe permit has been obtained from the City of Allentown, and where in the case of the special activity permit, such permit authorizes the consumption of alcoholic beverages at said party, function or activity. Possession of an open container containing an alcoholic beverage by any person shall create a rebuttable presumption that such person did intend to consume the contents thereof in violation of this section. (13675 §4 5/21/98)

B. Definitions, for the purpose of this section, are as follows:

1. **Alcoholic Beverage** means any liquid intended for human consumption containing more than one-half of one (.05%) percent of alcohol by volume.

2. **Public Place** means any place to which the public has access and includes any public street or public sidewalk, as well as the front of and the area immediately adjacent to any parking lot, store, restaurant, tavern or other place of business but shall not include those premises duly licensed for the sale and consumption of alcoholic beverages on the premises or within their own private property.

C. Nothing in this section shall be deemed to prohibit the consumption of an alcoholic beverage in any duly licensed establishment whose certificate of occupancy extends upon a sidewalk.

D. Any person guilty of a violation of this section shall be subject to the penalties prescribed in Section 711.99. (12410 §1 2/6/80)

#### **741.09 ENFORCEMENT**

A. The provisions of this Article shall be enforced by police officers or any other public officer. (15003 §1 6/20/12)

B. Any violation of the provisions of this Article may be cause for a citation, a violation ticket and/or a notice of violation to be issued to the violator (15003 §1 6/20/12)

C. A notice of violation or violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

D. Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

E. A public officer is authorized and empowered to cause a violation to be corrected.

F. If the City has affected the correction of the violation, the cost thereof may be charged to the owner of the property, tenant or offending party. The cost shall be determined by the Director of Public Works or designee in order that the City shall be compensated for both direct and indirect costs and expenses incurred. (14365 §1 3/7/06;15003 §1 6/20/12))

#### **741.10 REGULATIONS**

The City may publish and post any regulations governing the procedures and enforcement of any provisions of this Article. (14365 §1 3/7/06)

#### **741.11 VIOLATION TICKET APPEALS PROCESS**

A. A person in receipt of a violation ticket may appeal to the Bureau of Recycling & Solid Waste by filing a request within ten (10) days of receipt of the violation ticket.

B. A Hearing Officer, designated by the Manager of the Bureau of Recycling & Solid Waste and in consultation with the Bureau of Engineering, may uphold the Appeal, deny the Appeal or may modify the violation ticket and/or any associated costs, fines or penalty amounts. (14365 §1 3/7/06)

#### **741.12 SEVERABILITY**

If any provision, paragraph, word, section or subsection of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect. (14365 §1 3/7/06)

#### **741.99 FINES AND PENALTIES**

##### **A. Violation Ticket Fines**

1. Violation tickets may be issued in the amounts of Twenty-five (\$25) Dollars or One Hundred (\$100) Dollars.

2. Any person who receives a violation ticket for any violation of this Article, may within ten (10) days, admit the violation, waive a hearing and pay the fine in full satisfaction of Twenty-five (\$25) Dollars or One Hundred (\$100) Dollars, as indicated on the violation ticket.

##### **B. Violation Ticket Penalties**

1. If the person in receipt of a Twenty-five (\$25) Dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Ten (\$10) Dollar penalty for days eleven (11) through twenty (20).

2. If the person in receipt of a One Hundred (\$100) Dollar violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a Twenty-five (\$25) Dollar penalty for days eleven (11) through twenty (20).

3. Failure of the person to make payment within twenty (20) days shall make the person subject to a citation. (14365 §1 3/7/06)

##### **C. Citation Fines (14365 §1 3/7/06)**

Any person violating any of the provisions of this article shall be fined not more than Six Hundred (\$600) Dollars or imprisoned more than ninety (90) days, or both. (11995 §1 2/21/73; 13034 §4 3/6/91; 14169 §1 4/8/04; (14365 §1 3/7/06;15003 §1 6/20/12)

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### **ARTICLE 743 SKATEBOARDS**

- 743.01 Purpose
- 743.02 Definitions
- 743.04 Skateboards Prohibited on Mall
- 743.06 Skateboards Prohibited at Night
- 743.08 Notice of Prohibited Riding Places
- 743.10 Pedestrian Right-of-Way on Sidewalks

743.12 Reckless Riding  
743.99 Penalty

#### **743.01 SKATEBOARDS**

The escalating usage of skateboards within the City is creating substantial hazards, obstacles and threats to pedestrians and traffic. The purpose of this ordinance is to protect the public and the "skateboards" by preventing the dangerous use of skateboards on public streets, sidewalks, and other public property.

#### **743.02 DEFINITIONS**

The following words, terms and phrases when used in this article shall be defined as follows, unless the context clearly indicates otherwise:

1. **Skateboard** means a narrow board or platform mounted on wheels designed to be operated by the rider standing thereon and propelled by human power or gravity.
2. **Center City** area means the area on and abutting Hamilton Street, the southern property line of Walnut and northern property line of Linden Streets between the eastern property line of North and South Fourth Streets and the western property line of North and South Twelfth Streets.

#### **743.04 SKATEBOARDS PROHIBITED ON HAMILTON STREET**

The operation, riding or coasting of skateboards on any sidewalks or streets in Center City is hereby prohibited. The location and boundaries of the Center City area are delineated in Section 727.02.

#### **743.06 SKATEBOARDS PROHIBITED AT NIGHT**

The operation, riding or coasting of skateboards in the public right-of-way during hours of darkness, defined as one-half hour after sunset and one-half hour before sunrise, is hereby prohibited.

#### **743.08 NOTICE OF PROHIBITED RIDING PLACES**

The operation, riding or coasting of skateboards upon any public or private property as to which notice against such activity is given by posting thereof in a conspicuous manner, is hereby prohibited. (14426 §1 10/6/06)

#### **743.10 PEDESTRIAN RIGHT-OF-WAY ON SIDEWALKS**

Where the operation or riding of skateboards is permitted on sidewalks, the rider shall yield the right-of-way to pedestrians using the sidewalk. Due and proper care for pedestrians must at all times be exercised by the riders.

#### **743.12 RECKLESS RIDING**

It shall be unlawful for any person to operate, ride, or coast upon any skateboard in a reckless manner, i.e., in a manner that disobeys common signs regulating vehicular traffic or in a manner that is careless and dangerous to the operator of the skateboard and/or the general public be they vehicular or pedestrian and/or that causes destruction of any property, public or private.

This section shall apply but not be limited to public streets and sidewalks. (14426 §1 10/6/06)

#### **743.99 PENALTY**

Any person violating any provision of this article shall be fined at least Twenty-five (\$25) Dollars, but not more than Six Hundred (\$600.00) Dollars. (12996 §1 8/15/92; 14156 §1 2/20/04)

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