

By Zerby

Amending Title 17 of the Minneapolis Code of Ordinances by adding a new Chapter 459 relating to Streets and Sidewalks: Chicago Avenue Mall.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances be amended by adding thereto a new Chapter 459 to read as follows:

CHAPTER 459. CHICAGO AVENUE MALL

459.10. Findings. The city council hereby finds that Chicago Avenue (formerly 8th Avenue South) between West River Parkway and Second Street South in the City of Minneapolis is not a part of any state highway, is located primarily in a central business district of the city, is being improved to its maximum width for roadway and sidewalk purposes, and is or would have been congested during all or some substantial part of normal business hours; that reasonably convenient alternate routes exist for private vehicles to other parts of the city and state; that unlimited use of such part of Chicago Avenue by private vehicles would have endangered the safety of pedestrians; that properties abutting such part of Chicago Avenue can reasonably and adequately receive and deliver merchandise and materials from other streets and alleys or by reason of provision herein made for limited use of part of such street by carriers of merchandise and materials; that it would be in the best interests of the city and the public and of benefit to adjacent and nearby properties to use such part of Chicago Avenue primarily for pedestrian purposes; and that pedestrian use is the highest and best use of such part of Chicago Avenue.

459.20. Authority; designation as pedestrian mall. Pursuant to the provisions of Chapter 430 and Section 450.31, Minnesota Statutes, the city council hereby designates Chicago Avenue (formerly 8th Avenue South) and the extension thereof from the south side of West River Parkway to the north side of South Second Street (hereinafter called "Chicago Avenue Mall") in the City of Minneapolis as a pedestrian mall.

459.30. Vehicle use regulations. Except as herein provided, vehicles shall not use the Chicago Avenue Mall. This use limitation does not apply to vehicles on the streets intersecting the Chicago Avenue Mall.

(a) Area-wide exception. The following classes of vehicles may enter upon and use the Chicago Avenue Mall, subject, however, to the further provisions of this chapter and general laws and ordinances applicable to the use of streets of the city:

(1) *Emergency vehicles*: Public police and fire vehicles and public and private ambulances;

(2) *Public works vehicles*: Public street repair and construction vehicles and equipment, public street cleaning and snow removal vehicles and equipment, public water and sewer repair and construction vehicles and equipment, and public vehicles and equipment engaged in construction, service and repair of any other public utility facility; and

(3) *Bicycles*: Any device propelled by human power upon which a person may ride, having two (2) tandem wheels either of which is over fourteen (14) inches in diameter, or any device generally recognized as a bicycle though equipped with two (2) front or rear wheels or a unicycle. Such vehicles shall not travel at a speed greater than ten (10) miles per hour.

(b) Driveway access. The part of the Chicago Avenue Mall generally lying within the northwest 48 feet of the southwesterly 178 feet of the Chicago Avenue Mall is hereby designated as a driveway and shall be clearly posted as such. Motor vehicles may use the driveway to enter or leave the Humboldt Lofts parking facility and service alley. Motor vehicles, including refuse haulers, engaged in delivery of merchandise and materials to or from the property abutting the northwest side of the Chicago Avenue Mall also may use the driveway. Vehicles conducting such operations shall not stop, stand or park within the driveway.

(c) Temporary special access permit. The owner or occupant of any property abutting on the Chicago Avenue Mall must apply for a special access permit to use vehicles and equipment on the Chicago Avenue Mall in connection with constructing, maintaining, removing or changing improvements to the property or in other unusual cases. Similarly, the owners of private utility facilities must apply for a special access permit to use vehicles and equipment on the Chicago Avenue Mall for the installation, maintenance and repair of gas, electrical, cable, telephone telecommunications or other types of private utility facilities. Nothing herein shall restrict access for the purpose of conducting emergency repairs to existing facilities. The city engineer may grant or deny the permit and specify such reasonable conditions and requirements in connection therewith as the city engineer deems necessary or desirable in conformity with Chapters 429 and 430 of this Code.

459.40. No initial assessment. The City has constructed improvements to the Chicago Avenue Mall. These improvements include concrete pavement and stairs, bollards, light fixtures and interpretive features. No property shall be subject to assessment for initial construction costs of such improvements. Operation, maintenance and annual improvements costs of the Chicago Avenue Mall, however, may be assessed pursuant to and under the authority granted by Chapter 430 and Section 450.31, Minnesota Statutes.

459.50. Improvement district. The city council hereby finds and determines that the Chicago Avenue Mall will involve annual costs to operate, maintain and improve and that a portion of such annual costs will provide benefits primarily to adjacent property rather than to the city as a whole. Therefore, the Chicago Avenue Mall improvements and facilities shall be operated, maintained and improved under Section 430.101, Minnesota Statutes, as amended, and the costs thereof assessed or taxed to benefited properties under Section 430.102, Minnesota Statutes, as amended, as follows:

(a) Operation and maintenance costs. The city will operate and maintain the Chicago Avenue Mall at a level commensurate with a typical downtown street and may, with the input of the advisory board created under Section 459.90 of this code, agree to provide additional annual maintenance. In the event such additional maintenance is provided, the costs thereof will be assessed and taxed to benefited properties pursuant to Section 430.102, Minnesota Statutes, as amended.

(b) Annual improvements costs. If the city, with input from the advisory board, agrees to provide any annual improvements to the Chicago Avenue Mall, the costs thereof shall be assessed and taxed to benefited properties pursuant to Section 430.102, Minnesota Statutes, as amended. At such time that the Chicago Avenue Mall requires replacement or renovation, the City will fund that portion of the costs that would be comparable to the replacement or renovation costs of Chicago Avenue had it been improved as a downtown street. The abutting property owners on the northwest side of the Chicago Avenue Mall that benefit from the driveway access provided in Section 459.30 (b) will be assessed an amount comparable to the cost to replace or renovate a driveway to Second Street South. Any remaining amount will be assessed and taxed to benefited properties pursuant to Section 430.102, Minnesota Statutes, as amended.

(c) Description of district properties. The following properties shall be subject to assessment and taxation for operation, maintenance and annual improvement costs: Lot 1, Block 1, Guthrie; Unit Numbers 1 through 8, Common Interest Community No. 1114 (Mill City); Lot 12, Auditor's Subdivision No. 39, except that part included in Common Interest Community No. 1114; and all units, Common Interest Community No. 1111 (Humboldt Lofts). Such area shall have the name and may be referred to in all official proceedings as "Chicago Avenue Pedestrian Mall Improvement District."

459.60. Retention of police powers. Nothing herein contained shall be interpreted or construed to be a vacation, in whole or in part, of any city street or part therein, and the city council shall retain all police powers and other rights and powers on the Chicago Avenue Mall.

459.70. Uses, activities permitted. The following uses or activities are permitted on the Chicago Avenue Mall to the extent they do not impair the driveway access provided in Section 459.30 (b) of this code:

(a) Decorations, banners, etc., when a part of an overall Minneapolis Riverfront District or Mill Quarter promotion or display, subject to compliance with Chapter 449 of this Code.

(b) Decorative waste containers, planters, seating, interpretive and/or wayfinding signage, holiday decorations, bouquets, art works, when authorized by permit granted by the city engineer under Chapter 95 of this Code.

(c) Sidewalk cafes or restaurants, when authorized by permit granted by regulatory services pursuant to Chapter 265 of this Code.

(d) Farmers, arts/crafts and other markets, when authorized by permit granted by regulatory services pursuant to Chapter 265 of this Code.

(e) Theatrical, musical or other performances, subject to arts commission review and permit granted by the city engineer under Chapter 95 of this Code and in compliance with all laws, ordinances and resolutions governing noise.

(f) Block parties as defined in Section 455.10 of this Code where the block party is of a citywide nature and when authorized by regulatory services pursuant to Chapter 455 of this Code. To the extent authorized in any such permit, the permittee may sell beer, food or food products and goods or merchandise on the public way or public highway notwithstanding the provisions of Sections 186.40, 368.40 and 427.130 of this Code.

(g) Sidewalk cart food vendors, when licensed and operated in accordance with Chapter 188 of this Code. The city council will also establish a reasonable fee to be charged each sidewalk cart food vendor located in the Chicago Avenue Mall, to defray the cost of mall cleanup and maintenance and other policing in connection with such license.

(h) Sidewalk cart flower vendors when licensed and operated in accordance with Chapter 331 of this Code.

(i) Organized events that identify and promote commercial, cultural, educational and/or institutional activities within the pedestrian mall district, when authorized by permit granted by the city engineer pursuant to Chapter 440 of this Code.

459.80. Uses and activities prohibited. The following uses and activities are prohibited on the Chicago Avenue Mall:

(a) Parades unless permitted under Section 459.70 (i) of this Code.

(b) Solicitations as defined in Chapter 333, Article I, of this Code.

(c) Street displays and/or sales of souvenirs or other merchandise, except as specified in Section 459.70 of this Code.

(d) Other uses not specifically authorized by Section 459.70 shall be prohibited; provided, however, and subject to all other valid and enforceable legal limitations and regulations by federal and state statutes, the City Charter and ordinances, or other legal limitations, the liberty of all persons to speak, write and publish their ideas and beliefs, including religious and political ideas, shall not be abridged, subject to the criminal and civil liability of persons for any abuse of such liberty. This subsection (d) shall not relieve or excuse any person from compliance with any law or regulation with respect to protection of the public health, safety or welfare, nor shall it permit the use of words, language or conduct likely to incite violence or public disturbance, or causing obstruction or interference with pedestrian or vehicular traffic, or interference with normal use of the roadway or sidewalks, or any conduct constituting a public or private nuisance.

459.90. Advisory board. (a) The city council hereby creates a five-person advisory board for the Chicago Avenue Mall. The advisory board shall consist of one representative from the general public who is a resident, property or business owner, or employee within the Downtown East neighborhood, and four owners or occupants of properties abutting the Chicago Avenue Mall or their representatives. The Downtown Minneapolis Neighborhood Association may nominate the Downtown East representative and any owner of abutting property may nominate a representative. Nominations shall be submitted to the city clerk at least 60 days prior to the end of expiring terms or promptly after a vacancy is created by resignation or other cause. The city council shall appoint the board members to 2-year terms, beginning on January first of each odd-numbered year; provided, however, that the first board members shall have terms commencing upon appointment and expiring January 1, 2009. Appointments are not subject to the city's open appointments ordinance. Any vacancy in an unexpired term shall be filled in the same manner as the original appointment was made and shall be for the unexpired term. Board members shall serve until their successors are appointed.

(b) The advisory board shall advise the city engineer and the city council on improvements to the Mall, operation and maintenance of the Mall, and guidelines for use of the Mall, among other things. It may also provide input on activity permits and complaints as set forth in Sections 459.100 and 459.110 below. The city engineer will select an employee of the department of public works to staff the advisory board.

459.100. Procedure for activity permits. Requests for permits or licenses for activities described in Section 459.70 hereof on the Chicago Avenue Mall shall be submitted in writing to the city engineer or other appropriate department, and shall be forwarded by the city engineer or other appropriate department to the advisory board. The advisory board shall transmit to the city engineer or other appropriate department any recommendations as to such requests within 10 days after receipt. The advisory

board may establish guidelines that will identify which types of permits and licenses the city may grant without notification of and/or input from the advisory board.

459.110. Complaints. Complaints from the public and from owners and occupants of adjoining property regarding the operation and maintenance of the Chicago Avenue Mall shall likewise be submitted to the city engineer, and referred by the city engineer to the advisory board, which shall promptly consider them and report to the city engineer their recommendations regarding such complaints.

459.120. Filing, amendment of plan. This plan for operation and regulation of the Chicago Avenue Mall shall be filed with the city clerk and open to inspection. It may be amended from time to time by ordinance as the city council may determine.

459.130. Effective Date. This ordinance shall be effective September 30, 2005.