

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 225, ARTICLE IV, SECTION 13 OF THE BOROUGH CODE TO DELETE SECTION 225-13(F)2., AND ADOPT A NEW SECTION 225-13(H) AUTHORIZING AND REGULATING THE OUTDOOR DISPLAY OF MERCHANDISE IN THE RC AND GC ZONES IN THE BOROUGH OF SPRING LAKE

WHEREAS, Chapter 225, Article IV, Section 225-13 sets forth the district zoning regulations for properties located in the RC and GC zones within the Borough of Spring Lake; and

WHEREAS, the Mayor and Council, have determined that it is in the best interests of the health, safety and welfare of the residents of the Borough to authorize limited and regulated outdoor displays of merchandise in the RC and GC Zones;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Spring Lake in the County of Monmouth and State of New Jersey as follows:

Section 1.

Section 225-13(F)2. of the Borough Code is amended to delete the first sentence which currently reads:

~~"No merchandise, products, waste, equipment or similar material shall be displayed or stored outside."~~

Section 2.

The following new section 225-13(H) is hereby adopted and added to the Borough Code:

Section 225-13(H) DISPLAY OF MERCHANDISE

1. Purpose.

The purpose of this chapter is to permit certain displays in front of stores within the RC and GC zones, to assist the merchants to market their merchandise and goods, facilitate the sale of fresh produce, and to enhance the beauty of the Borough of Spring Lake. Retail experts report that businesses that have appropriate merchandise displays outside their businesses experience as much as 50 percent more business than those that do not. Such displays, done tastefully, add to the sense of vitality and welcoming of a business district. At the same time, it is necessary to maintain the quality of the commercial districts. In addition, many communities have instituted farmers markets in order to encourage the consumption of fresh produce, increase activity in their commercial districts, and support an increased sense of community. Existing food retailers can provide some of the benefits of such a market with a display of fresh produce in front of their stores.

2. Rules and regulations.

A. Merchandise, inventory and goods, which are offered for sale within a store may be displayed in front of the exterior store front within the sidewalk right-of-way and on privately owned property in the GC and RC Zones during the store's operating hours from May 1 through December 31.

B. Plants, cut flowers, greens and other such vegetative matter may be used as decorative material in a store's outside display even if such items are not sold in the store.

C. Merchandise displayed within the public right-of-way must be within 30 inches (measuring perpendicular from the front building line) of the front property line of the property in which the store is located. The decoratively displayed merchandise shall not occupy more than 1/3 of the store front width, provided that it shall not exceed eight linear feet, but may be at least two linear feet. The decorative display shall not obstruct the storefront entrance. The top of the item shall not be higher than eight feet above the sidewalk surface.

D. Fresh produce displayed by a retail food store within the public right-of-way must be within 42 inches (measuring perpendicular from the front edge) of the front property line of the property in which the store is located. The decoratively displayed merchandise shall not occupy more than 1/2 of the store front width, provided that it shall not exceed eight linear feet, but may be at least two linear feet. The decorative display shall not obstruct the storefront entrance. The top of the item shall not be higher than five feet above the sidewalk surface.

E. A safe, continuous path on the public sidewalk with a minimum of four feet must be maintained for pedestrian traffic to pass in front of the property having an outdoor decorative display.

F. The display shall not contain front lighting, backlighting and/or lighting within the display. However merchandise itself that contains lighting may be displayed. No power lines or extension cords shall be allowed to provide power to the display.

G. The above-referred-to merchandise, inventory and goods permitted to be displayed in front of the exterior storefront may be displayed on temporarily removable supports such as benches, shelves, book shelves, decorative carts and similar kinds of supports. The supports shall be removed at the end of each day of business, and shall have no wheels, except for decorative carts. Packing cartons, cardboard boxes, bins, card tables, folding tables, or similar display supports are prohibited. Clothing cannot be displayed on racks, but may be displayed on a mannequin. There shall be no more than one mannequin per store. The clothing shall be worn by the mannequin, not merely draped upon it. There shall be no more than one item of merchandise displayed per store that exceeds four feet in length and one foot in width throughout the four foot length, nor can a store display such a piece of merchandise and a mannequin at the same time

H. No sales may occur outside the store. All sales must be conducted within the store. The goods and merchandise within the decorative display are not to be sold on the sidewalk.

I. All displays of merchandise and goods under the provisions of this chapter, and all window boxes or other exterior fixtures on a commercial building, shall be kept neat and clean and free from dead plants, trash, litter, and other debris.

J. No other merchandise, wares, goods, foods, clothing, apparel, etc. may be displayed exterior of any store or building either on private property or in the public right-of-way except as provided per the above.

K. No signs are permitted in association with merchandise on display in accordance with this ordinance.

3. Annual application for permit required; fee.

Any merchant choosing to decoratively display merchandise and goods under the provisions of this section shall obtain a permit annually from the Borough of Spring Lake by submitting in writing an application requesting such permit and a sketch identifying the approximate location of items to be displayed. An annual application fee shall be paid upon submission of the application. A first-time application shall be \$50. A renewal application for substantially the same arrangement shall be \$25 each year thereafter. The application shall be submitted to the Code Enforcement Officer who shall review same and submit a recommendation to the Borough Council. The Borough of Spring Lake may grant the permit in its discretion by resolution under terms and conditions set by the Borough of Spring Lake including requiring the merchant to obtain reasonable insurance. The Borough of Spring Lake, in its discretion, may revoke any permit granted whenever it deems necessary.

4. Suspension of section by Council authorized.

The Borough Council, by resolution, may suspend the operation of this section or may prohibit the display of merchandise on certain days and times, and for certain events.

5. Control and enforcement.

The following control and enforcement provisions shall apply to this chapter:

- A. If the Code Enforcement Officer determines that any decorative display of merchandise and goods is in a state of disrepair, unclean or not in compliance with the operating plan, layout and approved items per the permit, or if the Code Enforcement Officer has determined that the holder of the permit or the owner of the real estate for which the permit is issued is in violation of any other municipal ordinance or regulation or state statute or regulation, the Code Enforcement Officer shall give written notice to the permit holder of the unsatisfactory condition of the facility and/or the violation of the terms of the permit, or the ordinance, statute or regulation of which the holder of the permit or property owner is in violation.
- B. The permit holder shall thereafter have five days to correct the unsatisfactory condition or permit violation, or ordinance, statute or regulation violation. If the unsatisfactory condition or violation is not so corrected within the five-day period, the

Code Enforcement Officer may thereafter suspend the permit and any decorative display of merchandise and goods must cease operation.

- C. The Code Enforcement Officer shall also report the violation to the Borough Council who may, at its discretion, revoke the permit, continue the suspension or lift the suspension, pursuant to the provisions of this section.
- D. The Code Enforcement Officer may, in addition to suspending the permit or as an alternative, file a Municipal Court complaint or a Superior Court complaint against the permit holder, or take any other lawful action to enforce the ordinance, statute or regulation violated.
- E. The Code Enforcement Officer may file a complaint in Municipal Court or in Superior Court against any individual or entity that places furniture or other items in the right-of-way for the purpose of operating any decorative display of merchandise and goods as provided for in this chapter, without obtaining a permit pursuant to this chapter, or take any other lawful action to enforce the ordinance, statute or regulation violated.

Section 3.

If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

Section 4.

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

Section 5.

This Ordinance shall take effect on upon passage and publication in accordance with applicable law.

INTRODUCED: May 27, 2008

ADOPTED: June 24, 2008

APPROVED: 
JENNIFER NAUGHTON, Mayor

Attest:


JANE L. GILLESPIE, BOROUGH CLERK