

ORDINANCE NO. 7,299–N.S.

ADDING BERKELEY MUNICIPAL CODE SECTION 9.48.045 CONCERNING
SIDEWALK VENDING ON TELEGRAPH AVENUE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Section 9.48.045 is added to the Berkeley Municipal Code to read as follows:

9.48.045 Vending associated with fixed location businesses on Telegraph Avenue.

A. The following provisions shall apply on Telegraph Avenue between Bancroft Way and Dwight Way.

B. A fixed-location business may vend goods from a location on the sidewalk in front of its fixed location provided that it complies with the requirements of Sections 9.48.080 through 9.48.110, except as follows.

1. Vending equipment shall not extend more than 36' towards the street from the front of the building.

2. Vending equipment shall have a maximum height of four feet, six inches and a maximum length of nine feet. In no case may the vending equipment extend beyond the established store front.

3. In no case may vending equipment permitted pursuant to this section reduce the width of the sidewalk available for pedestrian use to less than 6 feet, after taking into account any other vending equipment permitted pursuant to this Chapter.

C. Application for and issuance of vending permits under this Section shall be subject to Sections 9.48.050 and 9.48.060.

D. In no case may an existing vendor permitted pursuant to this Chapter be displaced in order to provide an opportunity for vending pursuant to this Section.

E. For purposes of this Section, the following types of goods may not be displayed or sold at a sidewalk location:

1. food products of any sort;
2. alcoholic beverages;
3. drug paraphernalia;
4. tobacco products; and
5. firearms or ammunition.

F. The provisions of Section 9.48.045 shall expire and shall be repealed in its entirety on July 31, 2015, unless such date of repeal is further extended by resolution of the City Council.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on June 11, 2013 this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

ORDINANCE NO. 7,300–N.S.

ADDING BERKELEY MUNICIPAL CODE SECTION 14.48.160 CONCERNING RETAIL
DISPLAYS ON THE PUBLIC RIGHT OF WAY

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Section 14.48.160 is added to the Berkeley Municipal Code to read as follows:

14.48.160 Authorized retail displays.

Objects such as, but not limited to, tables, chairs, umbrellas and canopies that are permitted pursuant to Chapter 9.48.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington,
Wozniak and Bates.

Noes: None.

Absent: None.

ORDINANCE NO. 7,301–N.S.

AMENDING SUBDIVISION (D) OF SECTION 16.18.010 AND SECTIONS 16.18.040 AND 16.18.160 OF THE BERKELEY MUNICIPAL CODE CONCERNING ENCROACHMENTS ON THE PUBLIC RIGHT OF WAY

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That subdivision (D) of Section 16.18.010 of the Berkeley Municipal Code is amended to read as follows:

D. "Minor encroachment" means encroachment into the public right-of-way resting on or projecting into the sidewalk area such as: subsurface tiebacks and soil nails; concrete stairs; disabled Access Ramps where more than six feet of sidewalk area is preserved; subsurface foundations extending less than 2 feet from the property line; level landings for garages; landscape features less than two feet in height; conduit for privately owned phone and data lines connecting buildings owned by the permittee; flower pots; permanent planter boxes; clocks; bus shelters; phone booths; bike racks; fences less than six feet above grade; earth retaining structures less than three feet above grade; benches; and curbs around planter areas. Any encroachment which is not a minor encroachment is a major encroachment.

Section 2. That Section 16.18.040 of the Berkeley Municipal Code is amended to read as follows:

16.18.040 Exemptions from permit requirements.

The following encroachments may be placed or maintained without a permit:

A. Mailboxes, however, must be placed in accordance with the rules and regulations at the United States Post Office Department and no box shall be placed so as to endanger the life or safety of the traveling public.

B. Newspaper racks which are installed and maintained in accordance with Chapter 16.40 or 16.44.

C. Lawns of any grass and type not prohibited by other laws.

1. The lawn shall not extend into the traveled way of the public street, not into the drainage ditches, gutters, and other drainage facilities, and not into that portion of the sidewalk area required for pedestrian usage.

2. The general public may not be denied the use of the planted area for pedestrian or other lawful travel. The City may use the planted area for any purpose whatsoever, and may issue a permit to any applicant to go thereon to perform work. If the lawn is damaged or disturbed in the course of such work, it will be removed and replaced by the permittee doing the work unless the permit specifically states otherwise.

D. Decorative Noncommercial Installations authorized and lawfully maintained under Section 14.48.180.

E. Sidewalk Cafe Seating and Benches and Planters authorized and lawfully maintained under Section 14.48.200, Chapter 23E.24, and former Chapter 23E.26.

F. Signs authorized and lawfully maintained under Title 20.

G. Objects such as, but not limited to, tables, chairs, umbrellas and canopies that are permitted pursuant to Chapter 9.48.

Section 3. That Section 16.18.160 of the Berkeley Municipal Code is amended to read as follows:

16.18.160 Existing encroachments not having a permit.

A. Existing encroachments that were constructed without a permit are illegal, may be cited as infractions or misdemeanors, and must be either removed or a permit applied for under the provisions of this chapter. If there is no response by the owner or owners within thirty days of notification, the City will have the right to remove the illegal encroachment at the owner's expense.

B. Notwithstanding the preceding subdivision, underground vaults and associated elevators or lifts may be maintained and used subject to approval of the City Engineer, if the City Engineer determines that the permitted use of the property with which the vault and lift are associated is impracticable absent their maintenance and use. The City Engineer may impose conditions on such continued maintenance and use, including but not limited to conditions relating to drainage, disabled access and safety on sidewalks and other areas of the public right of way that are affected by the vault. The City Engineer may also impose conditions limiting the duration for which a vault and associated elevator or lift may be maintained or used, the land uses in conjunction with which they may be maintained and operated, or the users who may maintain and operate them. Any approval by the City Engineer under his subdivision shall be dependent on compliance with any conditions that may be imposed on continued maintenance and operation, and shall be revocable upon noncompliance.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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Absent: None.

