DEPARTMENT OF PUBLIC WORKS AND ASSETS
RULES AND REGULATIONS
GOVERNING OBJECTS
IN THE RIGHT OF WAY[1]

BENCHES

Louisville Metro Government, its boards, agencies, commissions or departments, with the permission of the Department of Public Works, may place a bench on the right of way.

All other person(s) or entity requesting to place a bench on the right of way shall make a written request to the Director of Public Works or his designee. The requested location shall be examined by Public Works to ensure a bench can be safely placed and can meet the regulations of Metro Government.

Before any bench is placed in the public way it shall be subject to review and approval by the Director of Public Works or his designee who shall consider:

1. Whether the bench endangers public safety or property, or interferes with or impedes the flow of pedestrian or vehicular traffic;

2. Whether the placement impedes or interferes with the reasonable use of a display window or display space;

3. Whether the design, size, shape, materials and color scheme of the bench comport with and enhance the quality and character of the streetscape, including nearby development and existing land uses; and

4. Whether the proposed bench is located within 100 feet of another bench or TARC bus shelter.

5. A bench must be placed and secured onto concrete pads.

6. The bench and placement must meet all Americans with Disabilities Act guidelines.

No more than one hundred (100) bench permits shall be issued by Metro Government and the permits shall be issued on a first come, first serve basis.

The administrative fee for each permit is one-hundred dollars ($100.00)

Each permit must be renewed annually beginning January 1, 2008.

[1]This regulation supersedes and replaces all existing regulations related to benches.

APPLICATION FOR PERMIT

The operator of the bench shall submit to Public Works a signed application in writing with a certificate of insurance, approved in form and amount by Risk Management, showing Metro as an additional insured covering any liability arising out of the maintenance of a bench. The application shall contain:

(1) The name, address, telephone number and, if applicable, electronic mail address of the operator;

(2) Each request must contain a site plan showing the exact street location where the bench is to be placed. A scale drawing or site plan for each bench must show its placement relative to existing buildings, curbs and other fixtures and appurtenances in the surrounding public rights-of-way for a minimum of twenty-five (25) feet in any direction; The requested location shall be examined by Public Works to ensure a bench can be safely placed and that it is greater than one-hundred feet of any other bench in the right of way or greater than one-hundred feet from any TARC shelter.

(3) Whether the operator would prefer to receive notice from Public Works and orders issued by Public Works by regular mail or electronic mail; and

(4) Shall be signed by the operator.

(5) Shall include the required permit fee.

(6) The information supplied pursuant to subsection (1) of this section shall be used for all notices, correspondence or communications from Public Works.

PERMIT

Permits shall be valid until January 1, 2008 and must be renewed annually, shall not be transferable, and shall be renewable pursuant to the procedure for original applications and upon payment of the applicable nonrefundable permit fee.

ISSUANCE OF A PERMIT

No permit shall be issued unless:

(1) The operator has filed a written statement whereby the bench operator agrees to indemnify, hold harmless, and defend the Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from the Contractor's (or Contractor's Subcontractors, if any) performance or breach of the contract provided that such claim, damage, loss, or expense is: (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or breach of contract, and (2) not caused by the negligent act or omission or willful misconduct of the Louisville/Jefferson County Metro Government or its elected and appointed officials and

employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

(2) The operator has paid a nonrefundable permit fee of one-hundred dollars ($100.00) for each bench.

(3) The operator is not in arrears as to any fees or charges regarding benches; and

(4) If the selected site location is on a state road, the person(s) or entity seeking the bench must first obtain review and written approval from the Kentucky Transportation Cabinet, Department of Highways before submitting an application to Public Works.

COLOR

Each bench must be colors of white, cream or black.

NO PERMITS

No person shall be permitted to place a bench in the following locations:

(1) Central Business District: Area from River Road to one (1) block south of Broadway; Roy Wilkins west to Hancock St;

(2) Historic Districts, as defined by the Land Development Code (LDC); or

(3) Any overlay district identified in the LDC

MAINTENANCE

(1) Each bench shall bear a weather proof label which contains the permit number and the name, address and telephone number of the owner. Such label shall be conspicuous in size and color, and placed in such a location so as to be readily visible.

(2) Each bench shall be maintained by its owner in a reasonably clean condition and shall be free of dirt and grease, rust and corrosion in visible metal areas, graffiti, discolored or bare surfaces, chipped, faded, cracked and peeling paint, cracked, dented, or broken components, pasted bills and other debris.

(3) No bench shall be abandoned.

(4) The bench owner shall repair any damage to the right-of-way caused by the installation or the maintenance of the bench.

(5) On removal of a bench, the operator of a permanently mounted bench who removes the bench must completely remove or cut off all bolts or fasteners flush with the surface of the right-of-way and restore the right-of-way to its original condition. The operator must inform Public Works in writing of the removal of a bench so that Public Works may inspect the location to confirm the restoration of the right-of-way to its original condition.

INSURANCE

Each operator of a bench in the public rights-of-way shall provide to the Director of Public Works a current certificate of insurance, naming Metro as an additional insured party, of a commercial general liability policy with a minimum limit of total coverage in the amount of one million dollars ($1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability. The insurance shall be written with a company that has an A.M. Best Rating of B+ VI or greater. The operator shall maintain the insurance described by this section so long as the operator uses or maintains a bench in the public rights-of-way, and the failure to do so shall be a violation of this ordinance.

Approved this the 18th day of August, 2010.

Ted Pullen, Director of Public Works and Assets.

Reference: LMCO 97.076