



## Legislation Text

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### AN ORDINANCE PERMITTING AND REGULATING THE PLACEMENT AND OPERATION OF NEWSPAPER STANDS ON CERTAIN PUBLIC RIGHTS OF WAY WITHIN THE CITY OF FOLEY DOWNTOWN HISTORIC DISTRICT CITY UNDER CERTAIN RULES AND REGULATIONS

WHEREAS, the sidewalks and public rights of way in the City of Foley are primarily for pedestrian use and the movement of people and goods; and

WHEREAS, the City of Foley has a specific interest in maintaining the historically or architecturally significant properties and areas within the City of Foley's Downtown Historic District and adjoining area. These properties and areas are important sources of the City's traditions and stability; and

WHEREAS, the City of Foley has found and determined that publication dispensing devices are both a threat to pedestrian safety and a detriment to the aesthetics and existing character of the City of Foley's Downtown; and

WHEREAS, the City Council of the City of Foley, Alabama has further found and determined that it is in the best interest of the public and necessary to promote and protect the public health, safety and welfare of the community to amend its existing regulations and to create new regulations regulating the use and placement of publication dispensing devices in the City of Foley's Downtown Area;

WHEREAS, the City of Foley's regulations shall apply equally to all persons and publishers regardless of the content or type of public expression and regardless of the possible reaction to the same;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF FOLEY, ALABAMA as follows:

**Section 1:** That the Code of Ordinances, City of Foley, Alabama is hereby amended by the addition of Section 14-5, reading in its entirety as follows:

#### **Section 14-5. Operation of Publication Dispensing Devices in Downtown Area**

##### **(a) Definitions**

1. Downtown Area- for purposes of this ordinance, the Downtown Area is mapped below (*See Figure A Attached*) and includes the Foley Downtown Historic District, National Registry Historic District, and all areas included in and along both sides of the following boundary streets: Pine St. on the West, Cyprus St. on the East, Verbena Ave. on the South, and Camphor Ave. on the North, and as

may be amended from time to time.

2. Publication Dispensing Device- a container constructed of metal, plastic, or other material of substantially equivalent strength and durability which is used for the dispensing of newspapers, fliers, handbills, advertisements, or other similar printed materials whether at a cost or free of charge.

(b) Prohibition and Exception

1. Publication Dispensing Devices shall not be placed within the public right-of-way, along the sidewalks, streets, thoroughfares, parks, or parkways of the Downtown Area, except for areas that are specifically designated for the location of such items in this ordinance.
2. Notwithstanding the general prohibition of Publication Dispensing Devices in certain areas in the Downtown Area, Publication Dispensing Devices are allowed only in the following designated areas;

Adjacent to the Welcome Center in John Foley Park.

On the south side of the City of Foley IT building located at 117 N. Alston St., Foley, AL 36535.

(c) Removal of Offending Publication Dispensing Device

- a. If any Publication Dispensing Device is placed or remains within the Downtown Area in violation of this chapter, the City Administrator shall send, by certified mail, with return receipt requested, a written notice to the address of the owner or user of the Publication Dispensing Device. The notice shall state a description of why the Publication Dispensing Device is in violation of the requirements of this chapter; that the owner or user is ordered to cause immediate removal of the Publication Dispensing Device from the public property; and that the Publication Dispensing Device shall be removed by the city after a date designated in the notice. The date shall be no less than ten (10) calendar days after the date the notice is mailed or first posted, as the case may be, unless the owner or user requests a hearing before the city council by filing a written appeal with the City Clerk on or before the designated removal date.
- b. When any appeal is filed pursuant to this section, the city council shall set a hearing on the appeal at its next regularly scheduled city council meeting and notice of such time and place shall be given. In making its determination, the city council shall only consider the standards set forth in this chapter. Its decision shall be rendered on the same day as the hearing. The decision of the city council shall be final.
- c. If any Publication Dispensing Device is still within the Downtown Area after the ten (10) day period described in sub-section (a) above, or if an appeal is made and denied after hearing before the city council, the City Administrator shall cause the removal of the Publication Dispensing Device. Similarly, if any material located in a Publication Dispensing Device remains in the Publication Dispensing Device after the ten (10) day period described in sub-section (b) above,

or if an appeal is made and denied after hearing before the city council, the City Administrator shall cause the removal of the materials.

- d. The owner of any Publication Dispensing Device removed in accordance with the terms of this section shall be responsible for all the expenses of the removal and relocation. All such removed Publication Dispensing Devices shall be relocated to the designated area by the Foley Welcome Center or at 117 N. Alston Street, unless the Publication already has a box at those locations, in which case the excess box shall be stored at the Foley Public Works building for pick up by the Publication.

**Section 2:** The provisions of this Ordinance are servable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity and enforceability of the remaining provisions of the Ordinance.

**Section 3:** This ordinance shall become effective upon its adoption and publication as required by law.