

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City Council of the City of Heppner, Oregon will hold a public hearing on January 14, 2013 at 7:00 PM to consider the following: AN ORDINANCE GOVERNING USE OF SIDEWALKS FOR STORAGE OF PERSONAL PROPERTY, COMMUNITY EVENTS, AND SIDEWALK CAFES.

THE CITY OF HEPPNER ORDAINS AS FOLLOWS:

1. DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. CITY - City of Heppner, Oregon

B. COMMUNITY EVENT -

(1) Any event or activity specifically approved in writing by the City Council or City Manager granting use of the sidewalks within a specifically defined area for a period of time not to exceed three consecutive days.

(2) The event must provide an overall or significant community benefit or serve a significant community purpose and must be sponsored by a service group, other community organization, or a local business.

C. PERMIT - Authorization by the City of Heppner to place and maintain personal property upon a public sidewalk.

D. PERSON - Any individual, partnership, association or corporation.

E. ROADWAY - The portion of the public right-of-way approved, designed or ordinarily used for vehicular travel, exclusive of the shoulder.

F. SANDWICH SIGN OR BOARD - A double-faced sign, not more than four feet in height nor more than two feet in width, designed to sit on a public sidewalk in front of a business.

G. SHOULDER - The portion of the street, whether paved or unpaved, contiguous to the roadway, primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

H. SIDEWALK - The paved portion of the street intended for use by pedestrians between the bur or lateral lines of a roadway and the adjacent property line

I. SIDEWALK CAFÉ - An establishment which serves food or beverages from an adjacent café or restaurant to patrons seated at tables located within the sidewalk area adjacent to the café or restaurant.

2. RESTRICTIONS

A. This ordinance is applicable to the portions of Main Street and Linden Way (Highway 74/207) between the intersections of Hinton Street and May Street within the City; and to the portions of May street between the intersections of Main St. and Chase St within the City.

B. Except as otherwise provided by this subchapter, or in conjunction with a community event, no person shall place personal property and allow it to remain on any portion of the sidewalk. Provided, however, this restriction shall not apply to decorative planters, public benches, bike racks in locations and in such amounts as are approved by the City, such approval may be obtain directly from the City Manager so long as it does not affect the right of pedestrian travel. This restriction shall not apply to equipment placed on the sidewalk in the normal course of business by an authorized franchisee of the City, so long as the property does not materially affect the right of pedestrian travel.

C. With like exceptions as above, in instances where no sidewalk exists within the block, no person shall place or store any personal property of any kind on that portion of the street lying between the curb and a line drawn parallel to and five feet outside the curb. This restriction shall not apply to motor vehicles or trailers so long as the vehicles or trailers are lawfully parked in compliance with all laws and regulations of the City and the State of Oregon.

D. With like exceptions as noted above, in instances where no curb or sidewalk exists, no person shall place or store personal property of any kind in that portion of the street between the edge of the traveled portion of the roadway and a line drawn parallel to and 12 feet outside the edge. This restriction shall not apply to motor vehicles or trailers so long as the vehicles or trailers are lawfully parked in compliance with all laws and regulations of the City and the State of Oregon.

E. In instances where a sidewalk is constructed for only a portion of a block, the restriction contained in division (A) above shall likewise apply to the area contained in an extension of the sidewalk throughout the block.

F. No person shall store any personal property other than motor vehicles or trailers on the street side of the street boundary known as a curb. Storage of motor vehicles or trailers in the space shall be subject to all other ordinances and statutes relating to parking.

3. PERMITS

Provided a permit is first obtained from the City Manager, persons may place personal property on a sidewalk with the following restrictions.

A. The personal property may only be placed within that portion of the sidewalk extending three feet towards the curb from the edge of the sidewalk nearest the building.

B. Sandwich board signs may be placed in either the area described in division (A) above or in an area described as being at least two feet, but not more than four and one-half feet, from the curb. Businesses are limited to one sandwich board sign at a time. The signs may be displayed only between the hours of 7:00 a.m. and 8:00 p.m. each day.

C. With the exception of newspaper vending machines and property belonging to nonprofit organizations such as service clubs, no personal property may be stored on any sidewalk except that portion of the sidewalk abutting property owned or rented by the holder of the permit. Any personal property placed on any sidewalk by nonprofit organizations in accordance with this provision must not impede the flow of pedestrian traffic.

D. In the case of sidewalk cafes, property in the form of tables, chairs, trash containers and the like may be placed up to four feet from the building edge of the sidewalk provided the City Council first finds that the placement will not materially affect the right of pedestrian travel. A sidewalk café permit shall not be issued unless the parties are in compliance with all laws regarding health, food vending, and liquor and have obtained all necessary permits.

E. Permits shall be valid for the times approved by the City Manager. There shall be no time limits for the permits for sidewalk cafes.

F.

(1) Permits shall be valid until the earlier of:

- (a) Revocation by the City Manager or City Council;
- (b) The business on the adjacent property closes for a period of more than 30 consecutive days;
- (c) The use of the adjacent property changes, in whole or in part;
- (d) The structure on the adjacent property is destroyed; or
- (e) Two years from the date of issuance of the permit.

(2) Permits issued prior to the effective date of this ordinance and in effect upon the date are hereby extended, and shall be valid for the period of time described in section (F)(1) above.

G. No permit shall be granted which would reduce the width of the space available for pedestrian travel to less than five feet as measured from the inside of the curb to the point at which storage of personal property would be allowed.

4. INSURANCE

A. Permits may only be issued upon the City being furnished a certificate of insurance for public liability, food products liability (if applicable), and property damages insurance in such amounts as may be set from time-to-time as the limits of municipal tort liability. The City shall be named as additional insured on the insurance policy.

B. Insurance requirements shall also be waived for permits issued to non-profit corporations and other community organizations.

5. PERMIT FEES

Permit fees shall be set from time-to-time by resolution of the City Council.

6. TEMPORARY STORAGE

The prohibitions contained in this subchapter shall not apply to the temporary placement of property on the sidewalk during loading or unloading operations.

7. COMMUNITY EVENTS AND FUNDRAISING EFFORTS

A. Parties wishing to hold a community event must seek approval by written application to the City Council at least 15 days prior to the date on which the community event will be held. The application must specify the dates and time the community event will be held, the location of the community event and the amount of sidewalk space sought to be utilized along with a statement of the community purpose of the event. An approval for a community event shall only be good for those days on which the event is to be held. If additional time is needed for event set up and clean up, the permit application must specify how much time is needed for set up and clean up. Community events held in conjunction with a community celebration such as the Fair, Rodeo and St. Patrick's Day celebrations need only seek approval from City Manager 7 days prior to the event and may be approved by the City Manager so long as the event does not pose a significant risk to the general public and does not unreasonably interfere with pedestrian traffic.

B. Service groups or other recognized community organizations seeking to use sidewalk space for fundraising events such as bake sales, raffle ticket sales, book sales, or other events which utilize sidewalk space may receive oral permission from the City Manager for use of the space by contacting the City Manager at least one day prior to the date the event will be held, informing the City Manager of the location the event will be held, and providing assurances to the City Manger that the event will not unreasonably interfere with pedestrian traffic.

8. DENIAL, SUSPENSION OR REVOCATION

A. The City Manager or the City Council shall have the authority to deny, revoke or suspend the permit issued under the terms of this subchapter if it is found:

- (1) The provisions of this subchapter have been violated or that an application is not in conformity with the requirements set forth in this subchapter;
- (2) Any necessary health permit has been suspended, revoked or cancelled;
- (3) Any required insurance provided is not in conformity with the requirements set forth in this subchapter; and/or
- (4) Any items placed on the sidewalk create a safety hazard or unduly inconvenience the public.

B. Upon denial, suspension or revocation, the City Manager shall give notice thereof. The applicant or permittee may appeal any denial or revocation to the City Council by filing a written appeal within ten days after receiving the denial or revocation. However, the use shall case until such time as the City Council has heard and made a determination on the appeal. After receiving a written appeal, filed in a timely fashion, the City Manager shall place the appeal on the City Council agenda for the next regular meeting.

9. PENALTIES

A. The first violation of any provision of this chapter shall be a Class B. infraction pursuant to section 1-4-1 of this code (\$250.00 fine). Any second or subsequent violation shall be a Class A infraction pursuant to section 1-4-1 of this code (\$500.00). Each day that a violation of this chapter continues shall constitute a separate Class A violation and shall be subject to an additional \$500.00 fine per day.

The City Council meeting is open to the public and members of the public are invited to attend. Persons who wish to attend and need assistance are asked to call 541-676-9618, or TTY relay 1-800-735-2900.

A. Kim Cutsforth

City Manager

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Affidavit.

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