

ORDINANCE NO 800

AN ORDINANCE AUTHORIZING SIDEWALK VENDING, PRESCRIBING REGULATIONS THEREOF, PENALTIES THEREFOR AND DECLARING AN EMERGENCY

THE CITY OF CANBY DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. **CONDUCTING BUSINESS ON CITY SIDEWALKS UNLAWFUL WITHOUT A SIDEWALK VENDORS BUSINESS LICENSE.** No person shall conduct business as herein defined on any City sidewalk without first obtaining a sidewalk vendors business license from the office of the City Recorder and paying the required fee. It shall be unlawful for any person to sell any goods on any sidewalk within the City of Canby except as provided by this ordinance.

Section 2. **DEFINITIONS.**

a. "Conduct Business." Conduct business means the act of offering for sale, edible or non-edible items for immediate delivery.

b. "Sidewalk." Sidewalk means that portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians.

c. "Commercial Zone." Commercial zone means any property which is designated commercial under Title 16, Planning and Zoning, of the Canby Municipal Code.

d. "Special Events." Special events mean an event specifically approved by the City Council granting use of street and sidewalk areas within a specifically defined area, for a period of time not exceeding ten (10) days, to a community based organization.

Section 3. **ITEM FOR SALE.** The City Administrator shall maintain a list of items which are approved for sale from sidewalk vending carts. Any item not on the list may be considered for approval based on the following criteria:

- a. All items or services to be sold must:
 - 1. be prepared in and vended from a vending cart;
 - 2. not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;
 - 3. involve a short transaction period to complete the sale or render the service;
 - 4. enhance business environments; and
 - 5. not cause undue noise or offensive odors.

b. Edible items must be immediately consumable, in

addition to all applicable requirements stated in subsection (a) above.

c. Non-edible items, in addition to all applicable requirements stated in subsection (a) must:

1. be easily carried by pedestrians; and
2. not be pre-packaged, pre-manufactured or previously handmade.

Requests to have an item or service considered for approval shall be submitted in writing to the City Administrator who shall determine whether the item or service conforms to the above criteria. If the item or service conforms to the criteria, it shall be listed as approved for sale by sidewalk vendors. The decision of the City Administrator if adverse to the party making the request, may be appealed to the City Council.

Section 4. APPLICATION FOR SIDEWALK VENDING LICENSE.

Application for a license to conduct business on a sidewalk shall be made at the office of the City Recorder on a form deemed appropriate by the City Recorder. Such application shall include but not be limited to the following information:

a. Name and address of the applicant.

b. Type of items sold. Individual applications shall be accepted for one (1) type of product.

c. A valid copy of all necessary permits required by State or local health authorities, including business name registration with State of Oregon.

d. A signed statement that the permittee shall hold harmless the City of Canby, its officers and employees and shall indemnify the City of Canby, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$100,000 for bodily injury for each person, \$300,000 for each occurrence and not less than \$100,000 for property damage per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the City of Canby, its officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without thirty (30) days written notice to the Recorder of the City of Canby.

e. Means to be used in conducting business including but not limited to a description of any mobile container or device, to be used for transport or to display approved items or services.

f. A separate application shall be required for each mobile container or device to be used for transportation or display.

g. The proposed location for conducting business and the written consent of the property owner(s) adjacent to the permit operating area, along with a signed statement that permittee shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be occasioned by any activity carried on or under the permit. No application shall apply to more than one location. Location must be approved by the City Administrator.

h. No food vendor application will be accepted for a location where a restaurant or fruit and vegetable market, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. No application will be accepted for a flower vendor for a location where a flower shop, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. The above requirement may be waived if the application is submitted with the written consent of the proprietor of the restaurant, fruit and vegetable market or flower shop. The consent must be submitted on a form deemed appropriate by the City Recorder.

Section 5. **FIRE MARSHAL INSPECTION.** Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any mobile device or pushcart to assure the conformance of any cooking or heating apparatus with the provisions of the City Fire Code. Only propane will be authorized for heat source.

Section 6. **RESTRICTIONS.**

a. Any person conducting business on the sidewalks of the City of Canby with a valid license issued under this ordinance may transport and/or display approved items upon any mobile device or pushcart, under or subject to the following conditions:

1. The operating area shall not exceed twenty-four (24) square feet of sidewalk which shall include the area of the mobile device or pushcart, and when externally located, the operator and trash receptacle.
2. The length of the mobile device or pushcart shall not exceed six (6) feet.
3. The height of the mobile device or pushcart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed five (5) feet.

b. All persons conducting business on a sidewalk must display in a prominent and visible manner the license issued

by the City Recorder under the provisions of this ordinance and conspicuously post the price of all items sold.

c. All persons conducting business on a sidewalk must pick up any paper, cardboard, wood or plastic containers,

wrappers, or any litter in any form which is deposited by any person on the sidewalk or street within twenty-five (25) feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this ordinance shall carry a suitable container for the placement of such litter by customers or other persons.

d. All persons conducting business on a sidewalk shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the sidewalk or to remove his vending cart entirely from the sidewalk if necessary to avoid such congestion or obstruction.

e. No person shall conduct business as defined herein at a location other than that designated on his permit.

f. No permittee shall make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his wares.

g. No permitted cart or device shall be left unattended on a sidewalk nor remain on the sidewalk between 11:00 p.m. and 6:00 a.m.

h. No permittee shall conduct business in violation of the provision of any ordinance providing for a special event.

Section 7. **SPECIAL EVENT DESIGNATION.** License shall not be required for sidewalk vendors during special events so designated by the City Council.

Section 8. **DENIAL, SUSPENSION OR REVOCATION OF LICENSE.**

a. The City Administrator may revoke or suspend the permit, or deny either the issuance or renewal thereof, of any person to conduct business on the sidewalks of the City of Canby if he finds:

1. That such person has violated or failed to meet any of the provisions of this ordinance.
2. That the cart operation has become detrimental to surrounding businesses and/or the public, due to either appearance or condition of the cart.
3. Any required permit has been suspended, revoked or canceled.
4. The permittee does not have a currently effective insurance policy in the minimum amount provided in this ordinance.

b. Upon denial, suspension or revocation, the City Administrator shall give notice of such action to the license holder or applicant, as the case may be, in writing stating the action he has taken and the reasons therefor. If the action of the City Administrator is a revocation based on subsections (a) (3,4) of this ordinance, the action shall be effective upon giving such notice to the permittee. Otherwise such notice shall contain the further provision that it shall become final and effective within twenty (20) days. Any revocation effective immediately may also be appealed to the City Council by such filing within ten (10) days. Any revocation, suspension or denial may be appealed to the City Council by filing a written notice of appeal with the City Recorder within ten (10) days of receipt of notification.

Section 9. **APPEAL.** The City Recorder shall place the appeal on the Council calendar at the first convenient opportunity therefor and shall notify the City Administrator thereof. At the hearing upon appeal the Council shall hear all witnesses including the City Administrator, or his representative who shall state the grounds for this action, and the applicant or person whose permit has been revoked or suspended may supply testimony in writing by witnesses or otherwise and may question witnesses on his own behalf or on behalf of the City. The Council shall hear and determine the appeal, and the decision of the Council shall be final and effective immediately.


Section 10. **PENALTY FOR VIOLATION.** Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars (\$500). In the event that any provision of this ordinance is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalty herein provided.

Section 11. **VIOLATION A NUISANCE, SUMMARY ABATEMENT.** The placement of any cart or device on any sidewalk in violation of the provisions of this ordinance is declared to be a public nuisance. The City Administrator may cause the removal of any cart or device found on a sidewalk in violation of this ordinance and is authorized to store such cart or device until the owner thereof shall redeem it by paying the removal and storage charges therefor to be established by the City Administrator.

Section 12. **EMERGENCY.** In order to immediately serve the interests of the citizens Canby to promote their health, safety, and welfare, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon final reading and action by the Canby City Council.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, March 18, 1987; ordered posted as provided by the Canby City Charter and scheduled for a second reading and action of the City Council at

a regular meeting thereof to be held on April 1, 1987, after the hour of 7:30 o'clock p.m., at the Council meeting chambers at the Canby City Hall in Canby, Oregon.


Marilyn K. Perkett, City Recorder

PASSED on final reading of the Canby City Council at a regular meeting thereof on the 1st day of April, 1987, by the following vote: YEAS 6 NAYS 0


William F. Pulver, Mayor

ATTEST:


Marilyn K. Perkett, City Recorder