

ORDINANCE NO. 1315

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTERS 16.08 AND 16.49 FOR THE PURPOSE OF REGULATING TEMPORARY VENDOR ACTIVITY ON PRIVATE PROPERTY.

WHEREAS, the City of Canby initiated an application (application no. TA-09-02) for an amendment to the text of Title 16 for the purpose of regulating temporary vendor activity on private property; and

WHEREAS, the Planning Commission held a public hearing concerning the text amendment application on July 13, 2009, and based on their determination that the proposed amendment met all required approval criteria, voted 5-0 to forward a recommendation of approval to City Council; and

WHEREAS, the Planning Commission re-opened the public hearing on August 24, 2009, in order to review the issue of whether to exempt non-profit entities from the proposed standards, and voted 6-0 to forward a recommendation to City Council that non-profit entities not be exempt from the standards; and

WHEREAS, City Council received the text amendment application and Planning Commission's recommendation of approval on August 05, 2009, and received Planning Commission's supplemental recommendation concerning non-profit entities on September 02, 2009; and the City Council found that the proposed amendment complies with the Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, and will preserve functions and local aspects of land conservation and development; that there is a public need for the change; that the amendment will serve the public need better than any other change which might be expected to be made; that the amendment preserves and protects the health, safety, and general welfare of the residents in Canby; and that it complies with the Statewide Planning Goals; and

WHEREAS, the City Council voted 4-0 to approve Text Amendment No. TA 09-02 as presented, based on the findings in the August 05, 2009, Council staff report, and directed staff to present Council with an ordinance for adoption; and

WHEREAS, this ordinance is for the purpose of codifying Text Amendment No. TA 09-02 into law; now therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Title 16 of the Canby Municipal Code, otherwise known as the "Land Development and Planning Ordinance of the City", is amended as detailed in Exhibit A.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, September 02, 2009, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, September 16, 2009, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.

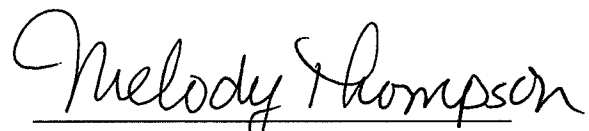


Kimberly Scheafer, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 16th of September, 2009, by the following vote:

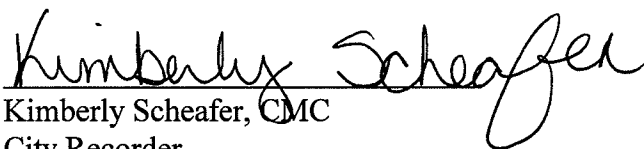
YEAS 3

NAYS 0



Melody Thompson, Mayor

ATTEST:



Kimberly Scheafer, CMC
City Recorder

EXHIBIT "A" to ORDINANCE 1315

AMENDMENT TO TEXT OF TITLE 16 (TA-09-02)

Deleted text is illustrated below in ~~strikeout font~~, added text is illustrated in red underlined font.

Add the following section to CMC Chapter 16.08...

16.08.140 Temporary vendor.

Any person who exhibits goods or services for sale or for offer in a temporary manner on private property, from a vehicle, trailer, tent, canopy, shipping container, or other temporary structure, or from one's person or displayed on the ground or off the ground, shall first obtain permit approval in compliance with the following standards, and shall operate in compliance with this section and with all other applicable sections of the Canby Municipal Code.

A. Exemptions. The following temporary activities do not require a Temporary Vendor permit, and are exempt from the standards in this section:

1. Any person engaged in the mere delivery of any goods or services to a site, which were purchased from a regular place of business inside or outside the city;
2. Any person engaged in delivery, exhibition, sale or offering of food on a site for a period of time not to exceed 2 hours during any 24 hour period;
3. Any contractor who is engaged in constructing, maintaining, or repairing a structure, utility, equipment, or landscaping on a site; or
4. Any person conducting a garage sale per Section 5.04.020.

B. Permit process.

1. A request for a Temporary Vendor permit shall be processed as a Type I decision pursuant to the procedures set forth in Chapter 16.89. A Temporary Vendor permit applicant shall demonstrate that the proposed activity meets all fire and life safety codes, and is in compliance with this section and with all other applicable sections of the Canby Municipal Code.
2. An application for a Temporary Vendor permit shall include a site plan drawn to scale, which includes all existing lot lines, setbacks, structures, landscaped areas, paved areas, and parking and loading spaces; and illustrates the proposed location and layout of all the Temporary Vendor's structures, equipment, furnishings, signage, and inventory.
3. The Temporary Vendor activity (e.g., retail, restaurant, etc) shall be an outright permitted use in the zoning district in which it is located; Or if the use is conditionally permitted in the zoning district, a Conditional Use Permit approval shall be required prior to issuance of a Temporary Vendor permit.

4. A "Site and Design Review" permit is not required for a permitted Temporary Vendor.

5. Any signage displayed by the Temporary Vendor must be in compliance with Chapter 16.42 sign standards, and all required Sign permits must be obtained.

6. A Temporary Vendor must obtain a City of Canby business license.

C. Duration. A Temporary Vendor permit may be granted for a site for up to 90 consecutive calendar days, and then may be renewed once upon request for an additional 90 days, provided that the temporary vendor activity has been conducted in compliance with all applicable codes, and no public safety incidents have occurred on the site related to the temporary vendor activity. In no case shall a site be permitted to host Temporary Vendor activity for more than 180 days in any 12 month period.

D. A Temporary Vendor shall be located on a paved surface with adequate vehicular and pedestrian ingress and egress, in compliance with Section 16.10.070. Inventory and equipment shall not be displayed or stored in any landscaped areas.

E. A Temporary Vendor shall comply with all required development standards, such as height limitations, setbacks, vision clearance areas, and applicable conditions of any previous land use decisions for the site.

F. Equipment such as trash cans, fuel tanks, or generators shall be screened such that it is not visible from any abutting public right-of-way.

G. A Temporary Vendor shall not displace any vehicle parking spaces that are required to meet the minimum off-street parking requirements of another use on site or on a nearby site. A Temporary Vendor shall not encroach into required loading space areas, driveways, or vehicle maneuvering areas.

H. A Temporary Vendor that displaces one or more vehicle parking spaces is prohibited for any site that:

1. Is non-conforming in terms of meeting minimum required vehicle parking or loading space requirements; or

2. Has been granted a vehicle parking exception, and currently has less than the required minimum number of off-street vehicle parking spaces.

I. The property owner and the temporary vendor permit holder shall be jointly and severably responsible for any violation of this section or other applicable sections of the Canby Municipal Code. Any such violation may result in the immediate revocation or non-renewal of a temporary vendor permit, and may result in the denial of any future temporary vendor permit for the site upon which the violation occurred.

Amend the following section in CMC Chapter 16.49...

16.49.030 Site and design review plan approval required.

1. The following projects require site and design review approval, except as exempted in (2) below:

- a. All new buildings.
- b. All new mobile home parks.
- c. Major building remodeling above 60% of value.
- d. Addition of more than 5,000 square feet of additional gross floor area in a one year period.
- e. Construction activity which causes a decrease in pervious area in excess of 2,500 square feet in a one year period.

None of the above shall occur, and no building permit for such activity shall be issued, and no sign permit shall be issued until the site and design review plan, as required by this ordinance, has been reviewed and approved by the Board and their designees for conformity with applicable criteria.

2. The following are exempt from site and design review:

- a. Signs that are not a part of a reviewable development project. Signs that are a part of a reviewable development project, and that are proposed more than two (2) years beyond the final occupancy of the reviewed development.
- b. Alterations or remodeling that do not change the exterior of the building.
- c. Temporary public structures which will be removed within two (2) years of placement.
- d. Accessory structures under 500 square feet.
- e. Temporary commercial tent/canopy structures, which meet the Uniform building or Fire Code, and which will be removed within thirty (30) days of placement.
- f. Temporary Vendor activity permitted pursuant to Section 16.08.140.
- fg. Parking lot or paving projects. If no buildings or structures are involved, paving or parking lot development in excess of 2,500 square feet of impervious surface is exempted from site and design review, except in the C-1 zone. In the C-1 zone, all new parking lots that do not involve buildings or structures are subject to site plan review as required in Section 16.49. All new paved areas and parking lots in excess of 2,500 square feet must meet the requirements of Section 16.49.150.
- gh. Single family or two-family dwellings, and any alterations or remodeling thereof.

h_i. Minor public facilities.

3. Construction, site development and landscaping shall be carried out in substantial accord with the approved site and design review plan. Review of the proposed site and design review plan and any changes thereto shall be conducted in accordance with site and design review procedures.

4. No fence/wall shall be constructed throughout a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission.