

Council Chambers  
7:30 PM, Thursday

A Regular Meeting  
of the Planning Commission

September 20, 1984  
Newberg, Oregon

Members Present:

John Englebrecht  
Jean Harris  
Jack Kriz

John Lyda  
Roger Veatch, Chair  
Arthur Roberts

Members Absent:

Brian Erickson  
Joe Young

Staff Present:

Clay Moorhead, Planning Director  
Barb Mingay, Recording Secretary

Citizens Present:

7 Citizens

The meeting of the Newberg Planning Commission was called to order by Chairman Roger Veatch.

Motion: Englebrecht-Harris to approve August 23, 1984 Planning Commission minutes. Motion carried unanimously by those present.

Public Hearing A:

Review of a proposed ordinance for the purpose of regulating mobile or transient merchants who occupy a temporary or fixed location and do business in much the same manner as a permanent business.

No abstentions were requested; none were given.

Staff Report: Clay Moorhead, Planning Director, indicated that this was a continued hearing, and that new or additional testimony could be presented. He indicated that the draft ordinance distributed to the Commission was presented for discussion purposes and was subject to revision. He pointed out that the definition "transient" has been changed to "temporary" and that a subheading under this category could be created entitled "craft persons". Currently, craft persons are included under the temporary merchant category.

He further commented on the legal issues and court rulings regarding temporary merchant sales. He reviewed some of the potential standards identified in the proposed ordinance. He also reviewed the current policy standards which are used now to qualify applicants for permit approval. A proposed fee increase for violations was also identified.

Proponents: (Those in favor of the existing ordinance)

Proponent: Carl Hutchison, an area resident and local craftspeople, summed up the proposed ordinance as "Peddlers and/or solicitors of any type whatsoever are absolutely forbidden in the City of Newberg". He further discussed what Newberg's future would be like, in his opinion, and why it came to be that way. He indicated that local craftspeople and those connected with the Newberg Old Fashioned Festival would not be able to comply with the proposed new regulations. He felt that permanent merchants and temporary merchants should all comply with the same regulations.

Proponent: Ken Christensen, 815 Zoe Court, indicated that the proposed new regulations were harsher requirements than those placed upon new businesses opening in a building in Newberg. It would be very difficult for those temporary merchants or vendors who live in town to operate at all. The temporary merchants would be required to pay 20 times the amount required to be paid for an occupancy permit for a regular business. He felt that putting stringent requirements on vendors that were different requirements from fixed full-time business was unfair.

Proponent: Will Baker, Rt. 4, Box 111A2, indicated that the \$50 quarterly fee (\$200/annual) and the requirements of professionally painted signs were unfair. The difference between fees for a permanent business occupancy permit and the annual \$200 licensing fee for temporary merchants, would place a severe hardship on local craftspeople. He indicated that 90% of the temporary salespeople in Newberg were local people. He feels that a 200% jump in fees, from the current \$10 fee to \$200.00 was too great. He also commented that a separate category should be created for craftspeople involved in trade fairs, etc. He indicated that profit was only part of the motive behind participation in trade/craft fairs. Most people get involved because they enjoy working with crafts. He added that those participants in Portland's Saturday Market were all individual business people.

Opponent: (Those in favor of revising or replacing the existing ordinance with more stringent requirements)

Opponent: Jean Nilles, 303 N. Main, commented that ID requirements should be included and that most responsible business people wouldn't mind providing such data. She felt that the proposed sign restrictions were not inappropriate; adding that her interpretation of professionally painted signs were signs that were well designed and looked good. She commented that \$50 a quarter was only \$4 a weekend. She added that the craftspeople participating in the Old Fashioned Festival could create an Old Fashioned Festival Association, with the Association paying the fee and apportioning the fee over the number of participants. She did feel that a definition should be included identifying service clubs or non-profit groups (as identified by their Federal tax status), and these groups should have a waived fee or reduced fee. In conclusion, she indicated that a clause should be included which would require civil liability insurance coverage by those people coming under the proposed ordinance requirements.

Opponent: Richard Kimball, Rt. 2, Box 326A, Newberg, indicated that liability insurance should be considered during the application process, under the identification requirement. He felt that \$50 four times per year wasn't much compared to the expenses for taxes, etc. that a fixed business had to pay. He indicated that the difference between renting a vacant lot and renting a structure on a lot was in the appreciated value of the structure, which would be taxed at a higher rate than a vacant lot.

Opponent: Bob Holveck, Rt. 1, Box 133, Newberg, asked staff what controls currently exist if a temporary merchants does not comply with existing regulations? He questioned whether the business could be shut down and what leverage the City had.

Mr. Moorhead responded that the existing ordinance does have a penalty clause; however, no violations have been processed through this procedure during the time it has been in effect.

No public agencies responded and no letters were received.

Proponent Rebuttal: Mr. Hutchison commented that some clause should be added which would identify categories such as non-profit, craft fair, etc. He indicated that craft people don't make enough profit to pay \$200 a year in fees. He commented that the craftspeople were quite concerned about the proposed new ordinance.

Proponent Rebuttal: Mr. Christensen commented that if the City was worried about funding, everyone in business in Newberg should be charged the same fee.

Staff Recommendation: Planning Director Moorhead recommended that the existing ordinance be revised in the following sections:

Section 1 c. Should read "...fixed location, not within a building, sells..."

Section 2 - Add paragraph 2 to read:

This ordinance shall not be enforced on those persons whose entire profits from such activity are contributed to a charitable, religious or educational organization, association or institution and/or those individuals who conduct business in conjunction with a community festival or event.

He commented that a section regarding civil liability could be added to the proposed ordinance.

He added that occupied full-time businesses are required to meet stringent parking, landscape, plumbing, electrical and building requirements prior to opening their businesses. In addition they are required to pay permit fees for plumbing, electrical, building, etc. permits. Because there are substantial differences between temporary and permanent businesses, different standards and different fees could be placed on them.

Additionally, he indicated that another method of allowing more than one vendor at a specific site was through the conditional use permit process with a one time fee of \$200. This process would allow review of the application by both the Planning Commission and City Council. Further, the Newberg Centennial Redevelopment Commission is currently looking into the possibilities of establishing a farmers market. Current consideration was being given to sales of farm products; however, craftspeople could possibly be included.

Hearing Closed.

After a brief discussion about various possible changes to the proposed ordinance, Chairman Veatch suggested that the ordinance be reviewed from Section 1 with commissioners either agreeing to leave in or delete parts of the sections.

Section 1-a., b., c.,: Approved without change.

Section 1-d.: Change to read "Any person who travels from street to street upon public or private property,".

Section 2, Paragraph 1: Change to read "Application for licensing shall be filed with the City of Newberg Planning Department together with the non-refundable application and license fee."

Section 2, Paragraph 2: This ordinance shall not be enforced on those persons whose entire profits from such activity are contributed to a charitable, religious or educational organization, association or institution and/or those individuals who conduct business in conjunction with a community festival or event.

Section 3: Add new section and revise existing section numbers which follow.

Section 3 to read: Fees. The initial application and license fee is \$50.00. This fee is non-refundable. Consecutive renewal fees shall be \$10.00 for every three month period provided the permit has not expired and is continued consecutively. Renewal of an expired permit shall cost \$50.00

Section 4: (General Requirements and Standards)

- a. Change to read: "...drivers license number and/or other appropriate identification, together with a recent photograph..."
- b., c. Unchanged.
- d. Change to read: "...individuals within the area who will be working for the applicant."
- e. Unchanged.
- f. Insert to read: "Provide evidence of civil liability insurance and shall sign a disclaimer of City liability relating to any action caused or charged against the applicant."

Section 5: (Special Standards for Temporary Merchants and Street Vendors)

- a. Change to read "...merchant to conduct business from the property."
- b. through h. Unchanged.
- i. Delete entire subsection.
- l. Change to read "Signs for street vendors shall be of professional appearance and mounted upon the mobile type device...".
- m. Change to read "Temporary merchants are limited to the use of no more than two signs which shall have a professional appearance".
- n. Change to read "Temporary merchants are authorized to set up on properties adjoining U.S. Highway 99W and U.S. Highway 219 south of Highway 99W on commercially zoned land".

Section 6: Add new section and revise existing section numbers which follow.

Section 6. Special Standards for Peddlers and Solicitors.  
A peddler and solicitor shall limit their hours of operation to only those hours between 9 AM and 9 PM.

Section 7: (Licensing Approval, Authority and Appeals)  
Change second sentence to read "Any application for a license which is denied by the Planning Department may be appealed to the Newberg City Council".

Section 8: Unchanged.

Section 9: (Repeal)  
Unchanged.

Motion: Roberts-Kriz to continue this hearing to the next regularly scheduled Planning Commission meeting and to request staff to update ordinance to include changes. Motion carried unanimously by those present.

Old Business. None.

New Business. None.

Motion: Englebrecht-Roberts to adjourn. Motion carried unanimously.