

CHAPTER 42

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PERMITS

42.012. Permit Required. A current and valid permit issued pursuant to the provisions of this chapter shall be required for special events, Christmas tree sales, sidewalk sales, and sidewalk cafés, as defined in this chapter. (Ord No. 92-83; Ord No. 39-2003)

42.015. Definitions. Except where the context specifically requires, as used in this chapter, the following words and phrases mean:

(a) **Building Line:** the location of a line extended along the front of the majority of buildings located on the same block face.

(b) **Christmas tree sales:** the selling of Christmas trees during the months of November and December in a residential, commercial office or neighborhood commercial zoned districts.

(c) **Pedestrian Pathway:** an area located on a public sidewalk that is maintained for the purpose of free and unobstructed pedestrian movement.

(d) **Safety Barrier:** a barrier for guiding visually impaired persons having a minimum height of 30 inches as measured from the sidewalk surface. The bottom 18 inches of safety barriers, as measured from the bottom of the sidewalk surface, shall be constructed of a solid and seamless material to assist the visually impaired.

(e) **Sidewalk Café:** any restaurant or café providing entertainment, dispensing food, beverages or alcoholic liquor to patrons seated at tables located within the sidewalk area in front of the restaurant or café.

(f) **Sidewalk Intersection:** the sidewalk area located at an intersection on a street corner that is created by extending intersecting property lines to the edge of a roadway at a street intersection. See Figure 1. The sidewalk intersection is a pedestrian-only area with the purpose of allowing free and unobstructed pedestrian movement while maintaining a safe vision clearance triangle for motor vehicles at roadway intersections.

(g) **Sidewalk Sales:** the selling of goods, wares or materials of any descriptions on any portion of the sidewalk in front of the property owner or occupants business, by such person.

(h) **Special event:** any dance, movie, play, concert, circus, carnival, exhibition, sports event, haunted house, or other similar live, filmed, or televised performance, activity, or program held, staged, or presented at any privately owned premises, where an admission fee or other consideration is charged or required, but not including a theater operating as a business in the course of its regular schedule of events.

(i) **Unobstructed:** an area that does not have any physical obstructions or tripping hazards, including people standing or sitting. An area is not unobstructed if it is a pedestrian pathway through which persons are actively traveling through.

(j) **Vehicle Buffer Zone:** an area that runs parallel to and abuts a roadway, the purpose of which is to create a pedestrian safety zone and unobstructed accessibility to parked vehicles. See Figures 3a and 3b. (Ord No. 39-2003; Ord No. 57-05)

42.020. Applications.

(a) Applications for permits required by this chapter shall be made with the Permit Application Center upon forms furnished by the city. Where the applicant is someone other than the property owner, the application shall be accompanied with a letter signed by the property owner

consenting to the issuance of the permit. A fee shall be required with the filing of the application, as set by resolution of the council.

(b) In addition to any other information required to be submitted on an application, an application for a special event permit shall contain:

(1) The location of the special event and the hours of operation thereof;

(2) The names of persons, other than officers of the Salem Police Department whose services are obtained through such department, who will act as chaperones, “bouncers,” security officers, or supervisors;

(3) The maximum number of persons who will be permitted to attend the special event at any one time;

(4) An explanation of all plans for insuring the safety of patrons in the event of fire, explosion, or other emergency, including compliance with all applicable fire prevention provisions of state law and city ordinances;

(5) An explanation of all plans for controlling traffic and parking at the site of the special event so as to insure the safe, speedy, and orderly movement of traffic on public streets in the vicinity.

(c) In addition to any other information required to be submitted on an application, an application for a sidewalk café permit shall contain:

(1) A drawing showing the width of the applicant's café or restaurant facing the sidewalk area requested to be used, location of doorways, width of sidewalk (distance from curb to building face), location of trees, parking meters, bus shelter, sidewalk benches, trees or trash receptacles, or any other semi-permanent sidewalk obstruction, as well as showing the area requested for use as a sidewalk café. (Ord No. 92-83; Ord No. 107-86; Ord No. 64-89; Ord No. 51-91; Ord No. 4-98; Ord No. 22-2002; Ord No. 39-2003)

42.025. Insurance.

(a) Before a permit which involves use of public right-of-way is issued under this chapter, the applicant shall obtain, and file with the Permit Application Center a certificate showing, such public liability, food products liability, and property damage insurance protecting the applicant and the 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 \$200,000 for bodily harm for each person, \$500,000 for each occurrence, and property damage of not less than \$50,000 per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name the City of Salem, its officers, agents and employees as additional named insureds, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the city recorder of the City of Salem.

(b) The maintenance of insurance required by subsection (a) of this section shall be a condition of the validity of the permit. Upon receiving information that such insurance is, for any reason, no longer in full force and effect, the permit shall be suspended, and notice of such action given to the permit holder as provided in SRC 42.028. Such suspension shall not be appealable and shall continue in effect until the permit holder furnishes proof that a new or reinstated policy of insurance sufficient to satisfy the requirements of subsection (a) of this section has been obtained or until the permit is revoked as provided in SRC 42.026(d). (Ord No. 64-89; Ord No. 81-91; Ord No. 22-2002; Ord No. 39-2003)

42.026. Denial or Revocation of Permit; Suspension Pending Revocation.

(a) An application for a permit under this chapter may be denied, or a permit revoked, for any of the following reasons:

(1) Any fraud, misrepresentation, or false statement contained in the application for such permit.

(2) Any violation of a federal, state, or local law which may indicate that such permit holder is unfit to conduct the business for which the permit is connected.

(3) Knowingly maintaining the permitted activity in a manner contrary to the terms of the permit or any provision of this chapter.

(4) Any other permit which is required to conduct the permitted activity has been denied, suspended, revoked, or canceled.

(5) The permit holder cannot obtain, or is unable to maintain insurance as required by SRC 42.025.

(b) Notice of denial or revocation of a permit shall be given in the manner set forth in SRC 42.028. Such notice shall set forth specifically the grounds for denial or revocation, and shall inform the permit holder of the right to and manner of appeal.

(c) The decision denying or revoking a permit shall be effective from and after the posting or delivery of notice, or five days after mailing of notice as provided in SRC 42.028.

(d) A permit issued under this chapter may be suspended, for a period not to exceed ten days, for a violation of paragraphs (3), (4) and (5) of subsection (a) of this section. During such period, the permit holder shall be given an opportunity to cure the violation, and, upon presentation of evidence of such cure, the permit shall be reinstated. If the violation continues past such ten-day period, then the permit shall be revoked. (Ord No. 39-2003)

42.027. Manner of Giving Notice.

(a) Notice of any formal action or hearing relating to any permit, or application therefor, shall be given to the permit holder or applicant by one of the following means:

(1) By deposit within the U. S. mail, certified mail, return receipt requested, addressed to the permit holder or applicant, at the permit holder's or applicant's last known address as shown by records of the director.

(2) By personal delivery to the permit holder or applicant.

(3) By posting in any conspicuous place on the premises for which the permit has been issued or for which a permit has been applied. (Ord No. 39-2003)

42.028. Appeal; Stay.

(a) Any person aggrieved by a decision denying an application for a permit or revoking a permit shall have a right of appeal to the Hearings Officer. Such appeal shall be made by filing a notice of appeal with the City Recorder within 14 days after notice of the denial or revocation describing with particularity the action from which the appeal is taken and the reasons why the decision was in error.

(b) The Hearings Officer shall set a time and place for the hearing. Notice of the appeal shall be given to the appellant as provided in SRC 42.028. The decision and order of the Hearings Officer shall be final.

(c) Upon proper filing of notice of appeal as provided in this section, the Hearings Officer may, for good cause shown, order revocation be stayed pending determination of the appeal. (Ord No. 64-89; Ord No. 4-98; Ord No. 22-2002; Renumbered and Amended by Ord No. 39-2003)

SPECIAL EVENTS

42.040. Review of Application for Special Events Permit; Issuance of Permit.

(a) Prior to the issuance of a special events permit, the application shall be reviewed by the Director of Community Development, and the privately-owned premises designated by the applicant as the location for the event may be inspected by the Building Official and the Fire Code Official, to insure that plans for protection of patrons from fire, explosion, or other emergency are adequate and that the premises comply with all applicable statutes, ordinances, and regulations and administrative rules and procedures.

(b) The Director of Community Development may receive reports and recommendations from other city officials regarding the application, and shall, after a review of the application and such other reports and recommendations, if any, determine whether there is any cause why the permit should not be granted. In the event that no such cause is found, the applicant shall be notified that the application has been approved. In the event cause for denial is found, the applicant shall be notified, in writing, that the application has been denied and the reasons therefor. (Ord No. 92-83; Ord No. 4-98; Ord No. 39-2003; Ord No. 57-05; Ord No. 35-06)

42.070. Conduct of Performance and Supervision of Patrons. Every person who conducts a special event, and of all agents or employees of such person, shall provide adequate supervision to insure:

(a) No person who is intoxicated or under the influence of narcotic or dangerous drugs is permitted to enter or remain on the premises where the special event is conducted;

(b) No person violating SRC 95.120 is allowed to remain upon such premises;

(c) No person under the age of 18 years is allowed to remain upon such premises after the hour of curfew as set forth in SRC 95.330;

(d) All applicable state and local fire codes and regulations are complied with, including "no smoking" areas, the number of persons occupying a structure, and the number and accessibility of emergency exits.

(e) All applicable rules and regulations imposed by the Oregon Liquor Control commission are complied with. (Ord No. 92-83; Ord No. 22-2002; Ord No. 39-2003; Ord No. 35-06)

42.080. Inspection. Special event premises shall be open for inspection by any police officer or Fire Code Official of the city at any and all times. (Ord No. 92-83; Ord No. 4-98; Ord No. 39-2003; Ord No. 35-06)

42.090. Grounds for Summary Suspension of Special Events Permit.

(a) A police officer or the Fire Code Official who is present at a special event may summarily suspend the special event permit for a period of not more than four hours for either of the following:

(1) The patrons of the special event have become a disorderly or riotous assembly, threatening the public peace or the safety of persons or property.

(2) The operator of the special event refuses to remove or cause to be removed any person violating any of the provisions of SRC 42.070, after such operator has been requested to do so by a police officer or Fire Code Official.

(b) Summary suspension shall be without hearing or appeal, but the permit holder shall be afforded an opportunity for post-suspension review by the Hearings Officer of the decision to suspend the permit. (Ord No. 92-83; Ord No. 39-2003; Ord No. 35-06)

CHRISTMAS TREE SALES PERMIT

42.120. Christmas Tree Sales Permit Conditions. The building and safety administrator may place conditions upon the issuance of a Christmas tree sales permit necessary to protect the public health, safety and general welfare. (Ord No. 92-83; Ord No. 39-2003)

SIDEWALK SALES PERMIT

42.140. Sidewalk Sales Permit Conditions.

(a) The director of community development shall place the following conditions upon the issuance of all sidewalk sales permits:

(1) An area not less than five feet wide shall be kept clear of merchandise and shoppers for the use of pedestrians moving past the sales area.

(2) No merchandise shall be displayed within 30 feet of any intersection, so pedestrians can move without undue restrictions and the vision of motorists will not be restricted.

(3) No merchandise shall be placed within 3 feet of the curb, to provide an area for passengers to alight from vehicles.

(4) No sidewalk displays shall be allowed in an area designated as a bus loading zone.

(5) Merchandise shall not be displayed in or sold from vehicles parked within the public right of way.

(6) Clothing racks, tables, and all merchandise shall be free of sharp edges or protrusions which might cause injury to the public.

(7) Sales and display period shall be limited to the hours from 12:00 p.m Friday through 6:00 p.m. Sunday.

(b) The number of sidewalk sales permits issued to an occupant or owner shall be a maximum of three per year. (Ord No. 52-84; Ord No. 39-2003)

SIDEWALK CAFÉ PERMIT

42.160. Sidewalk Café Permit Conditions.

(a) The director of public works shall place the following conditions upon sidewalk café permits:

(1) A pedestrian pathway not less than five feet wide and a vehicle buffer zone of not less than three feet wide shall be kept clear of fixtures, tables, chairs and patrons for the use of pedestrians (Figure 2).

(2) **(a)** The pedestrian pathway shall begin either where the public sidewalk and the property line meet (Figure 2), or between the sidewalk café and the street when the sidewalk café is placed next to a building or property line and then extends into or is placed entirely on the adjacent public sidewalk (Figures 3a and 3b).

(b) If any portion of the sidewalk café is placed on the public sidewalk within the first five feet of where the property line and public sidewalk meet, then the tables; and chairs shall be separated from the pedestrian pathway and any adjacent public sidewalk areas by a safety barrier.

(3) The sidewalk café shall be limited to the normal business hours that the permit holder is in operation.

(4) **(a)** A permit holder shall be limited to the use of the sidewalk area directly in front of the business structure.

(b) This area may be extended to include the front of an adjoining business(es) if the sidewalk café permit holder first secures written approval from the adjoining business(es).

(c) Prior to the sidewalk café business expanding its sidewalk café area, the city must review and approve the proposed expansion.

(d) The business(es) approving the use of the sidewalk permit area can revoke approval, with or without cause, with 15 days advance notice to the city and the café permit holder.

(e) In no case will a sidewalk café extend into an alley or into a sidewalk intersection.

(f) Where an extended permit area has been approved by the director of public works, the permit holder must submit and maintain a current liability insurance certificate in conformance with 42.025, which specifically covers the extended area.

(5) The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition, and at such times that the permit holder is not utilizing the sidewalk as authorized, all things shall be removed therefrom. If disposable utensils, cups and plates, etc., are used, trash containers will be provided on site for use by the café patrons.

(6) The permit holder shall use positive action to assure that its use of the sidewalk in no way interferes with or limits free and unobstructed passage of the sidewalk.

(7) Each permit shall terminate December 31st of the year in which issued.

(8) The permit issued shall be personal to the permit holder only and is not transferable in any manner.

(9) In addition to any other condition required by this section, the director of public works may impose other conditions deemed necessary to protect the public health, safety and welfare.

(10) The permit may be suspended by the director of public works upon finding that the permit is in conflict with a community event as allowed pursuant in SRC 76.100.

(11) The requirements of the city's Public Nuisance Ordinances, SRC Chapter 98, shall apply to Sidewalk Café permit holders. (Ord No. 64-89; Ord No. 30-97; Ord No. 22-2002; Ord No. 39-2003)