

ORDINANCE NO. 963

AN ORDINANCE AMENDING ORDINANCE NO. 636, PROHIBITING THE PLACING OF BENCHES OR PUBLIC SEATING ON SIDEWALK AREAS WITHOUT FIRST OBTAINING A PERMIT.

The people of the city of Prineville ordain as follows:

Section 1. Section 1 of Ordinance No. 636 is amended to read:

"Section 1. **Permit Required.** No person, firm, or corporation shall place benches or public seating on the sidewalks or sidewalk areas in the city without first obtaining a permit from the city administrator."

Section 2. Section 2 of Ordinance No. 636 is amended to read:

"Section 2. Permit Application.

(1) Upon proper application filed by the applicant, setting forth all relevant facts related to the request in question, the city administrator may issue a permit or permits to persons, firms, or corporations to place benches or public seating in areas in which they are prohibited by section 1.

(2) The city administrator shall consider the following factors in granting the permits, and shall not grant the permit unless he finds that to do so would not be detrimental to the public interest:

- (a) Width of sidewalks or sidewalk area;
- (b) Type of benches or public seating;
- (c) Location of parking meters, light standards, crosswalks, building entrance and exit ways, streets, utility poles, alleys, loading zones, and other physical conditions and legal restrictions then existing or reasonably contemplated;
- (d) Traffic count;
- (e) Purpose of applicant; and
- (f) Any other factors found by him to be relevant.

(3) The city administrator shall designate in the permit, or in an exhibit attached to it, the areas in which benches or public seating shall be allowed, the type of benches or public seating allowed, and any other condition or restriction that he deems necessary or expedient to protect the public interest."

Section 3. Section 3 of Ordinance No. 636 is amended to read:

"Section 3. Regulations and Conditions. Each person, firm, or corporation placing benches or public seating under a permit shall comply with the following general conditions and restrictions:

(1) The permittee shall abide by all of the terms, conditions, and restrictions contained in the permit.

(2) The permit shall be nontransferable without prior written approval of the city administrator.

(3) The permit shall be revocable at any time with or without cause at the pleasure of the city council; and no expenditure of money, lapse of time, or any act or thing shall act as an estoppel against the city of Prineville or be held to give the permittee or the owner of any property any vested right.

(4) The installation and care of benches or public seating shall be at the expense of the permittee and without cost to the city. The sidewalks and sidewalk areas in the vicinity of the benches or public seating and the structure served thereby shall be maintained in a good state of repair and maintenance at the expense of the permittee.

(5) At the expiration or termination of the permit, the permittee shall remove all benches or public seating from the area at the permittee's own expense and place the sidewalk in the area in a good condition of repair.

(6) The permittee shall indemnify and save the city of Prineville, its officers, agents, officials, and employees, harmless from any claim or award for damages or injuries to property or persons, including costs and attorney fees, allegedly arising in whole or in part out of the use, occupation, or disruption of sidewalks or sidewalk areas by the permittee or those acting on his behalf or with his approval or ratification, or allegedly arising in whole or in part out of the failure by the permittee to abide by the terms of this ordinance and the permit.

(7) The permittee shall remove, replace, or relocate individual benches or seating as the public convenience or necessity warrants and at the request of the city administrator.

(8) No permit shall become effective until the permittee files with the city administrator proof of the existence of a prepaid liability insurance policy naming the city of Prineville, its officers, agents, officials, and employees as named insureds. The policy shall have limits of \$100,000 or more for injury to one person in one accident, and \$500,000 or more in case of injuries to more than one person in any one accident, and \$50,000 or more for property damage. The insurance shall indemnify the city, its officers, agents, officials, and employees, as specified in sub-

section (6) of this section. The insurance shall be kept in effect, and subsequent policies or renewals of the original or subsequent policies shall be filed with the city administrator.

(9) No permit shall be issued for placing any benches or types of seating that are for sale in or on the sidewalks or sidewalk areas, nor shall any advertising be placed on any benches or seating. The purpose of the seating is to be for the convenience of the public only.

(10) No permit shall become effective unless the permittee, simultaneously with the issuance of it, files with the city administrator, in form approved by him, a notice of acceptance of the terms, covenants, and conditions of the permit, and an agreement to abide by all of the terms, covenants, conditions, and obligations imposed on the permittee by this ordinance."

Section 4. Section 4 of Ordinance No. 636 is amended to read:


"Section 4. Appeal. Any applicant who feels aggrieved by an action taken by the city administrator may file a written appeal with the city council setting forth in detail the reasons for the appeal. The city council shall hear the appellant and any other relevant information and may ratify the action taken by the city administrator or may take any action in relation to the applicant that the city administrator could take under the provisions of this ordinance."

Section 5. Section 5 of Ordinance No. 636 is amended to read:

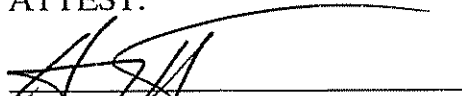
"Section 5. Penalty. Violation of a provision of this ordinance is punishable by a fine not to exceed \$250. Each violation of a provision of this ordinance constitutes a separate offense, and each day or portion thereof over which the same violation occurs constitutes a separate offense for each day or portion thereof."

Passed by the council this 12th day of March,
19 91.

Approved by the mayor this 12th day of March,
19 91.


Mayor, Steve Diefelman

ATTEST:


Recorder, Henry Hartley