

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AMC CHAPTER 13 ADDING UNIFORM  
SIDEWALK REGULATIONS AND REPEALING AMC 6.44**

Annotated to show deletions and <b>additions</b> to the code sections being modified. Deletions are <b><del>bold lined through</del></b> and additions are <b><u>in bold underline</u></b> .
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**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293, (1975); and

**WHEREAS**, the 2008 Downtown Task Force made several recommendations to the City Council concerning the use of City sidewalks for commercial and other purposes, including: Issues 5 – 7, as outlined on the Task Force Summary Report which concern, *inter alia*, more equitable allowance for use of the public right of way for private commercial use, a more consistent encroachment permit process, including standards for placement of functional objects (planter boxes, benches, trash cans, etc - with allowance for private placement of such public use items), control over the placement and maintenance of miscellaneous publication racks and news-racks within the downtown; and

**WHEREAS**, the City of Ashland wishes to modify and update City Ordinances relating to use of City right-of-way and sidewalks to implement some of the recommendations of the 2008 Downtown Task Force; and

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS**

**SECTION 1.** The recitals set forth above are true and correct and are incorporated herein by this reference.

**SECTION 2.** AMC Chapter 6.44 [**SIDEWALK CAFES**] is hereby repealed.

**SECTION 3.** A new Chapter AMC 13.03 is hereby added to read as follows:

**13.03 Sidewalk Regulation**

### 13.03 .010 Purpose

The purpose and intent of this chapter is to protect and promote a safe environment within the public rights-of way of the City of Ashland, specifically on City sidewalks. The placement of objects on the public right of way requires adequate regulation to ensure its primary purposes, which include:

- Uninhibited pedestrian access on sidewalks
- Access entering and exiting vehicles parked in the right of way
- Maintenance of utilities within the right of way
- Emergency service access to persons both within the right of way and on private property.

It is also the intent of this chapter to recognize the importance of the aesthetic quality of the public rights of way by providing minimum standards to maintain a positive visual streetscape for the City of Ashland that promotes the enjoyable use of the right of way for all of its intended and legal purposes. This is achieved through the following:

- Materials and Construction Standards
- Maintenance and Safety Standards
- Placement, Clearance and Spacing Requirements
- Procedures for Abatement / Removal
- Penalties

### 13.03.020 Definitions

A. Abutting property owners and occupants. Any owner or occupant of property which abuts the subject adjacent sidewalk permit area.

B. Adjacent sidewalk area. That portion of the public sidewalk between the curb line and the property line demarcated by extending the side building lines of the premises until they intersect the curb.

C. Downtown Sidewalk Usage Map (DSUM). A detailed map of the Ashland Downtown District adopted by Resolution of the Ashland City Council. The DSUM graphically demonstrating the sidewalk areas available for occupancy or encroachment under this Ordinance.

D. Sidewalk Permit Area. That area of a City public sidewalk being lawfully utilized by a person or entity pursuant to a permit or agreement with the City of Ashland. Lawful use for purposes of this Chapter means compliance with all applicable Federal, State, and local laws and regulations, including but not limited to full payment of fees, rates and charges, if any,

**13.03.025 Limited Applicability to Designated Zones. Permits and agreements for occupancy or encroachment of the sidewalk permit area are available only if the property is located in one of the following zoning districts: C-1-D (Commercial Downtown), C-1 (Commercial), or E-1 (Employment). Only lawful use is permitted. Lawful use means uses and activities consistent with and in compliance with all other applicable laws, including City land use regulations and controls, and all other applicable Federal, State, County and City regulations. All other sidewalks outside the above designated zones are not available for sidewalk usage by permit or concession, other than exempt activities and uses, [functional items], or interim uses specifically provided for herein.**

**13.03.030 Exempt Activities: City Seasonal Event usage**

**Notwithstanding any provision to the contrary in this Ordinance, the City Council may, at its discretion and upon such conditions as it deems appropriate, grant permission to adjacent owners and occupants, by special permit for free use of the sidewalk permit areas in the commercial zones of the City for designated seasonal events. Such Seasonal Event permits shall be initially limited to three days for the Memorial Day weekend and three days for Labor Day weekend and shall require a Sponsor to provide insurance. The City Administrator is delegated authority to grant permits for the above-referenced three-day events. The Council may be Resolution establish additional seasonal event days and may also establish standard forms with terms and conditions for participation in such events.**

**13.03.035 Interim Regulations for Publication Boxes (News-racks and Publication Racks).**

**The City intends to provide standard publication boxes as City functional items [See AMC 13.02.040.C & D] for use by individuals and entities desiring to distribute written materials, regardless whether such publications are offered for free or for a charge. Said publication boxes to be provided by the city shall be located on sidewalks or other public areas in designated locations meeting placement, clearance and separation standards or as otherwise designated on the adopted Downtown Sidewalk Usage Map. City standard publication boxes will at first supplement and later replace privately owned boxes meeting minimum dimensional standards at approved public locations. Until City placement of such City standard publication boxes [anticipated to take a number of years] interim regulations and controls on existing publication boxes (inclusive of news-racks, boxes and other publication racks) shall apply. Unless compliance is exempted, Interim Regulations require compliance with all applicable provisions of AMC 13.03, all special regulations noted therein, and standard forms adopted pursuant to AMC 13.02. No fees or charges shall apply to publication boxes under the interim regulations. Privately owned publication boxes will continue to be permitted on private property, with the permission of the owner, provided they do not interfere with ingress and egress pursuant to Building and Fire Codes.**

### **13.03.040 Application, Permit Fees and Rates**

**The form of the application for occupancy or encroachment on sidewalks shall be established by Resolution of the Council. The application fees and square footage rates or gross sales rates, if any, shall also be established by resolution of the City Council. The Resolution approving such fees and rates shall provide for the annual adjustment of fees and rates by the CPI for the previous calendar year, without the need to formally amend the resolution. Notwithstanding the above the City Administrator may establish separate applications for exempted or limited activities or interim regulations or waive the application requirement for specified occupancies by written Order.**

### **13.03.050 Permit Application**

**A. Application for an annual permit or agreement to occupy or encroach on sidewalk for any purpose, inclusive of commercial activity [e.g. sidewalk dining], shall be made at the Public Works Department on an approved application form together with the required fees and charges. The application for permit or agreement shall minimally contain:**

- (1) A completed application form, signed by the abutting property owner and occupant; and,**
- (2) A submittal in full of the rental rate equal to the annual (12 month) rental rate for the square footage of the adjacent sidewalk permit area requested; and,**
- (3) A scale diagram of the sidewalk permit area, with dimensions and the location and description of all structures, materials and activities shown; and**
- (4) An executed standard form release, hold harmless, and Indemnity agreement, as well as certificates of insurance and endorsement form.**
- (5) Other information shall be provided as required by the Public Works Director to carry out the purpose of this chapter.**

**The Public Works Director shall forward all applications for review to the Fire Marshall, Building Official and the Director of the Community Development Department. Reviewing Departments shall provide input as to conflicts with City codes, including but not limited to Building, Fire and Land Use Codes. If the proposed use is not in compliance with zoning and land use regulations and approvals the use shall be denied.**

### **13.03.060 Criteria**

**A. The Public Works Director shall review the application for its strict compliance with the mandatory criteria listed below. There are no variances or exceptions to the criteria of this ordinance.**

**1. Location Within a Permitted Zone. Permits and agreements for occupancy or use of the sidewalk permit area are available only if the property is located in one of the following zoning districts: C-1-D (Commercial Downtown), C-1 (Commercial), or E-1 (Employment).**

2. Use of Building Occupant. A sidewalk permit area may be approved only for use of the adjacent occupant, with the consent of the property owner, if different.

3. Six Foot Clearance Except as specified on the Downtown Sidewalk Usage Map, and consistent with AMC 10.64.010, there shall be at least six (6) feet clear and unobstructed passageway between the sidewalk permit area boundary and any City owned or controlled fixtures or structures, including but not limited to benches, barriers, street trees, bike racks, lamp posts, sign posts, or the curb edge, whichever is closest. The Public Works Director may require more than six feet if necessary to accommodate pedestrian movement and ADA access.

#### 4. Other Placement Standards.

Except as specified on the Downtown Sidewalk Usage Map, neither the sidewalk permit area itself, nor any object located therein shall be placed, installed, used or maintained:

- a) Within six feet (6') of the outer edge of any roadway.
- b) Within ten feet (10') of any crosswalk
- c) Within six feet (6') of any fire hydrant or other emergency facility
- d) Within ten feet (10') of any driveway or alley entrance/exit
- e) In the public right of way within any un-authorized zoning district, including all
  - residential zoning districts
- f) Within 3 feet (3') from either end of approved bicycle parking U-racks
- g) Within the footprint of any bus stop areas.
- h) Within fifteen feet of an intersection.

Notwithstanding the above, certain functional items [e.g. publication boxes] may be located within 24 inches of the roadway edge/ curb face.

#### 5. Materials and construction standards.

All temporary structures or object (including furnishings such as tables and chairs), placed in the sidewalk permit area shall be of a weatherproof and sturdy construction, (i.e. solid wood, iron, non-corrosive metal cement, or similar material). Plastic is prohibited as suitable material for structures and furnishings as are materials which stain or damage the sidewalk. Said items shall comply fully with all applicable regulations, including building codes, land use ordinances and Resolutions of the city. The City Council may adopt by Resolution material and construction standards, [including typicals], for public furnishings placed in the sidewalk permit area.

**6. Maintenance and installation standards. Any item placed, installed or maintained within the sidewalk permit area shall be subject to the following maintenance standards:**

- a) **No object shall be chained, bolted, or otherwise attached to any fixture, tree or city functional item located in the public right of way, nor shall any object be attached to the surface of the right of way.**
- b) **Objects shall be designed and constructed to be movable by one person and where practical, wheels shall be attached or attachable to allow for ease of movement.**
- c) **Objects placed in a sidewalk permit area shall not be used to violate any other applicable code, including provisions and limitations on signage.**
- d) **Objects, such as furnishings, placed in the sidewalk permit area shall have information affixed to the exterior of the object including the name and address of the owner and the name of the establishment with which the object is associated including an emergency contact number.**
- e) **Objects occupying the sidewalk permit area shall be maintained in a clean and orderly condition and in good repair at all times. This includes but is not limited to maintaining a condition which is reasonably free of dirt, rust and grease. The item is reasonably free of chipped, faded, peeling or cracked paint. All structural and/or moving parts are in working order and pose no safety hazard to the public. Any glass or plastic (such as display windows) are unbroken and reasonably free of cracks, dents, blemishes and discoloration.**
- f) **Objects must maintain a weather proof or weather resistant quality.**
- g) **Objects shall be designed to be stable and self supporting under a wind load of at least 20 pounds per square foot without attachment to the pavement or any other object**

**7. Illegal structures or usage. No sidewalk permit area will be approved if the permit area or six foot clearance area adjacent to the permit area contains structures, fixtures, obstructions or materials which have been illegally placed or affixed to or in the City right-of-way. For purposes of this ordinance Illegal structure or usage includes not only items placed or activities conducted without a permit but also items or activities which were initially placed or conducted lawfully but for which the owner/operator has failed to maintain current payment to the City.**

**8. Minimum Square Footage. The sidewalk permit area is a minimum of fifty (50) square feet or as otherwise designated on the Downtown Sidewalk Usage Map. This provision does not apply to interim regulations for publication boxes.**

**9. Minimum Duration. The minimum duration of the permit is yearly (twelve months, whether or not the entire year is available for use). This provision does not apply to interim regulations for publication boxes.**

**10. Arrearages to the City or Pending City Violations. No sidewalk permit area will be approved for one year after a person or entity applying for the permit has been found in violation or is currently subject to an active violation proceedings for violation of the City of Ashland Municipal Code concerning or relating to the activity to be conducted in the permit area. This includes but is not limited to actions for failure to maintain business license, arrearages of other delinquency in food and beverage tax receipts, transient occupancy taxes or unpaid balances under the prior sidewalk dining ordinance.**

**11. Alcoholic beverages. The Public Works Director shall forward all applications for review by the City Recorder for any proposed use which involves alcoholic beverages. Written approval of the designated City official in accordance with City ordinances is required for any such proposed use, in addition to state regulatory requirements.**

**12. Liability Release, Indemnity, Hold Harmless, and Insurance. No sidewalk permit area will be approved without an executed release agreement and insurance certificates as required by AMC 13.03.070.**

#### **13.03.070 Liability Release, Indemnity, Hold Harmless Agreement and Insurance**

**Prior to the issuance of permit, Permittee shall:**

**A. Furnish a signed Release, Hold Harmless and Indemnity agreement, in the City standard form, that the permittee shall release and hold the City of Ashland harmless, as well as defend, indemnify and hold harmless the City, its officers and employees, from any and all claims for damages to property or injury to persons which may occur in connection with an activity carried on under the terms of the permit. The agreement shall also release the City from any and all liability to the Permittee.**

**B. Furnish and maintain such personal injury, property damage and general liability insurance as will protect permittee 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 the amount of municipal tort liability under the Oregon Tort Claims Act. Such insurance shall be without prejudice to coverage otherwise existing, and shall name the City, its officers and employees, as additional insureds, and shall further provide that the policy shall not terminate or be canceled prior to the expiration of the permit without 30 days written notice to the City.**

**C. For functional items and items subject to interim regulations, the standard agreement language may be incorporated into standard applications and/or permits forms and insurance requirements to add the city as additional insured shall be deemed waived.**

### 13.03.080 Conditions of Permit

#### A. Requirements for all sidewalk permit areas:

1. Each permit issued shall terminate December 31st of the year in which it is issued, or earlier as specified on the face of the permit. Requests for renewals shall be filed with the Public Works Department prior to the expiration of the original permit. Renewals filed prior to expiration require a deposit of only six (6) months rental rate, unless the applicant has previously been in arrears in which case the deposit shall be the full annual rental rate. The Public Works Director may approve, approve with additional conditions, or deny the request for renewal. Unless fees are waived for the type of request, no application shall be accepted for renewal without a renewal application fee, as specified on the City Council Fee resolution.
2. The permit issued shall be personal to the permittee only and is not transferable in any manner.
3. The permit may be temporarily suspended by the Public Works Director in the event of an emergency as provided in AMC 2.62 or upon approximately forty-eight hours advance notice if the public interest requires use of the right-of-way or sidewalk permit area for a public event, construction, repair, or any other purpose. The City will attempt to provide notice of said suspension as soon as practical. The City shall not be responsible for any loss or damage claimed by the permittee for such closure, except that permittee shall be entitled to a refund of the rental rate based on a pro rated calculation of rates based on days of closure.
4. The permit is specifically limited to the area approved or as modified by the Public Works Director, and will include a diagram indicating the area approved and the location of the materials permitted to be in the right-of-way.
5. Only those things authorized by the permit and shown on the diagram may be placed in the sidewalk permit area. Should the permittee not utilize the sidewalk permit area as authorized for a period of seventy-two (72) hours or more, all the materials shall be removed.
6. All required federal, state, and local permits and authorizations for the proposed use, [e.g. food service OLCC] shall be obtained and complied with prior to the occupancy, including specifically any access modifications or parking improvements required to be completed prior to the commencement of the occupancy.
7. Issuance of this permit does not authorize violation of any federal, state or local law, including City sign regulations.



8. Smoking shall not be allowed in any sidewalk permit area..

9. Sidewalk permit areas must be supervised by permittee or its employees, except for function items or items subject to temporary regulations. [but see special regulations]

10. The permit authorizing use of the sidewalk permit area must be visibly displayed during occupancy of the permit area.

11. The City of Ashland has the right to repeal or amend this Chapter and thereby terminate or modify all private sidewalk usage or operations. No permittee shall obtain any property right in the continued private use of the public sidewalk.

#### 13.03.090 Denial, Revocation, or Suspension of Permit

A. The Public Works Director may deny, revoke, or suspend the permit upon finding that any provision of this chapter or condition of approval has been violated. The permit or agreement shall be suspended if the rental rate is not fully paid within three working days of the due date or if the Permittee fails to maintain required insurance.

B. The Public Works Director shall give notice of denial, revocation, or suspension to the applicant or permittee in writing stating the action which has been taken and the reason therefor. The action shall be effective immediately for a denial and upon the expiration of the appeal period [10 days] for a suspension or revocation. Appeals shall be processed as provided in AMC 2.30. If an appeal of a suspension or revocation is properly filed, the suspension or revocation shall be stayed until resolution of the appeal. Upon hearing the matter, the City Administrator shall render a final written decision.

13.03.100 Interim Special Regulations for Publication Boxes. In addition to all other applicable criteria, standards and requirements in AMC 13.02 and 13.03, the following special regulations for publication boxes are imposed.

A. Unless otherwise designate on the Downtown Sidewalk Usage Map, any publication box placed in whole or partially within the right of way shall be located in groupings with a linear dimension of no greater than twelve feet. Publication boxes shall be placed immediately abutting other publication boxes within the approved grouping location. A publication box grouping shall be placed a minimum of 200 feet from the closest existing grouping on the same side of the street. All publication boxes shall be 24 inches off the curb face to minimize conflicts between vehicle doors opening into the sidewalk.

B. Unless otherwise designated in the Resolution establishing standards for functional items, no individual publication box shall exceed five feet in height,

thirty inches in width or two feet in thickness unless specifically approved by the Public Works Director for publication boxes that serve multiple publications/vendors/distributors.

C. Publication boxes shall contain a system to prevent contents from spilling out of the container such as clasping door systems, spring loaded auto closing doors, etc.

D. Each publication box shall be designed, installed and maintained to protect the contents from weather related hazards such as wind, rain, snow, etc

E. Each publication box shall display only its contents in a clear glass or plastic window.

F. In the event a publication box remains empty of its contents and unused by its owner for a period of more than 30 consecutive days, the publication box shall be deemed abandoned and is subject suspension or revocation or summary abatement as outlined herein.

#### 13.03.110 Penalties

A. Knowingly occupying or encroaching upon a public right-of-way without the permission of the City shall be considered a Class C misdemeanor offense, subject to the limitations of AMC 1.08.

B. Any violation of the requirements of this chapter, not addressed in A above, shall be a Class A violation as defined by AMC 1.08 and punishable as set forth in that section.

C. The City Administrator or designee is authorized to issue a citation to any person violating the provisions of this chapter. Issuance of a citation shall trigger revocation of the permit or agreement under Section 13.03.100 and in the event of conviction, no permit shall be issued to the same person, entity or address, for a period of at least two years.

#### 13.03.115 Summary Abatement.

If the condition of any item in the City right of way, including any street or sidewalk is such that it creates a risk of serious injury to the persons or property, the Public Works Director is authorized to pursue summary abatement in accordance with Chapter 1.08 and to charge against the responsible owner/operator the full costs of such abatement.

**SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause

shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 5. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 6. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1, 4-6) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors..

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:

\_\_\_\_\_  
Richard Appicello, City Attorney

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AMC CHAPTER 13 ADDING UNIFORM  
SIDEWALK REGULATIONS AND REPEALING AMC 6.44**

Annotated to show deletions and **additions** to the code sections being modified.  
Deletions are **~~bold lined through~~** and additions are **in bold underline**.

**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293, (1975); and

**WHEREAS**, the City of Ashland does not ban constitutionally protected speech and expression on City sidewalks, provided such speech and expression does not obstruct pedestrian traffic, consistent with AMC Chapter 10; and

**WHEREAS**, the City of Ashland prohibits all commercial activity (sidewalk vending) on City sidewalks except for certain limited activities (i.e. the sale of only certain narrowly drawn categories of goods) which have been shown, based on the record of this proceeding, to fulfill a special public need for such goods.

**WHEREAS**, the 2008 Downtown Task Force made several recommendations to the City Council concerning the use of City sidewalks for commercial and other purposes, including: Issues 5 – 7, as outlined on the Task Force Summary Report which concern, *inter alia*, more equitable allowance for use of the public right of way for private commercial use, a more consistent encroachment permit process, including standards for placement of functional objects (planter boxes, benches, trash cans, etc. with allowance for private placement of such public use items), control over the placement and maintenance of miscellaneous publication racks and news racks within the downtown; and

**WHEREAS**, the City of Ashland wishes to modify and update City Ordinances relating to use of City right of way and sidewalks to implement some of the recommendations of the 2008 Downtown Task Force; and

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS**

**SECTION 1.** The recitals set forth above are true and correct and are incorporated herein by this reference.

**SECTION 2.** AMC Chapter 6.44 [**SIDEWALK CAFES**] is hereby repealed.

**SECTION 3.** A new Chapter AMC 13.03 is hereby added to read as follows:

### **13.03 Sidewalk **Café, Special Event and Publication Box** Regulation**

#### **13.03 .010 Purpose**

**The purpose and intent of this chapter is to protect and promote a safe environment within the public rights-of way of the City of Ashland, specifically on City sidewalks. The purpose of this chapter is to recognize a special public need for sidewalk dining as it relates to economic development and tourism in Ashland. Similarly, this chapter recognizes the special public need for City sponsored special commercial sales events to promote tourism and economic development. Finally, this chapter recognizes the special public need for publication boxes to guarantee the free exchange of information. Notwithstanding this public need, the placement of objects on the public right of way requires adequate regulation to ensure its primary purposes, which include:**

- Uninhibited pedestrian access on sidewalks**
- Access entering and exiting vehicles parked in the right of way**
- Maintenance of utilities within the right of way**
- Emergency service access to persons both within the right of way and on private property.**

**It is also the intent of this chapter to recognize the importance of the aesthetic quality of the public rights of way by providing minimum standards to maintain a positive visual streetscape for the City of Ashland that promotes the enjoyable use of the right of way for all of its intended and legal purposes. This is achieved through the following:**

- Materials and Construction Standards**
- Maintenance and Safety Standards**
- Placement, Clearance and Spacing Requirements**
- Procedures for Abatement / Removal**
- Penalties**

#### **13.03.020 Definitions**

**A. Abutting property owners and occupants. Any owner or occupant of property which abuts the subject adjacent sidewalk permit area.**

**B. Adjacent sidewalk area.** That portion of the public sidewalk between the curb line and the property line demarcated by extending the side building lines of the premises until they intersect the curb.

**C. Downtown Sidewalk Usage Map (DSUM).** A detailed map of the Ashland Downtown District adopted by Resolution of the Ashland City Council. The DSUM graphically demonstrating the sidewalk areas available for occupancy or encroachment under this Ordinance.

**D. Sidewalk Permit Area.** That area of a City public sidewalk being lawfully utilized by a person or entity pursuant to a permit or agreement with the City of Ashland for the limited purposes set forth in this ordinance. Lawful use for purposes of this Chapter means compliance with all applicable Federal, State, and local laws and regulations, including but not limited to full payment of fees, rates and charges, if any,

**13.03.025 Limited Applicability to Designated Zones.** Permits and agreements for occupancy or encroachment of the sidewalk permit area are available only if the property is located in one of the following zoning districts: C-1-D (Commercial Downtown), C-1 (Commercial), or E-1 (Employment). Only lawful use is permitted. Lawful use means only the limited uses and activities identified herein (sidewalk dining and special event) and consistent with and in compliance with all other applicable laws, including City land use regulations and controls, and all other applicable Federal, State, County and City regulations. All other sidewalks outside the above designated zones are not available for sidewalk usage by permit or concession, other than exempt activities and uses, [functional items], or interim uses specifically provided for herein.

**13.03.030 Exempt Activities: City Seasonal Event usage**

**Notwithstanding any provision to the contrary in this Ordinance, the City Council may, at its discretion and upon such conditions as it deems appropriate, grant permission to adjacent owners and occupants, by special permit for free use of the sidewalk permit areas in the commercial zones of the City for designated seasonal events. Such seasonal events shall be designed and structured to fulfill a special public need to promote tourism and economic development. Such Seasonal Event permits shall be initially limited to three days for the week before the Memorial Day weekend and three days for the week after Labor Day weekend and shall require a Sponsor to provide insurance. The City Administrator is delegated authority to grant permits for the above-referenced three-day events. The Council may be Resolution establish additional seasonal event days and may also establish standard forms with terms and conditions for participation in such events.**

### 13.03.035 Interim Regulations for Publication Boxes (News-racks and Publication Racks).

The City intends to provide standard publication boxes as City functional items [See AMC 13.02.040.C & D] for use by individuals and entities desiring to distribute written materials, regardless whether such publications are offered for free or for a charge. Said publication boxes to be provided by the city shall be located on sidewalks or other public areas in designated locations meeting placement, clearance and separation standards or as otherwise designated on the adopted Downtown Sidewalk Usage Map. City standard publication boxes will at first supplement and later replace privately owned boxes meeting minimum dimensional standards at approved public locations. Until City placement of such City standard publication boxes [anticipated to take a number of years] interim regulations and controls on existing publication boxes (inclusive of news-racks, boxes and other publication racks) shall apply. Unless extended by Council action, all publications must use City publication boxes or be located on private property or in designated areas or free speech zones by July 1, 2012. Unless compliance is exempted, Interim Regulations require compliance with all applicable provisions of AMC 13.03, all special regulations noted therein, and standard forms adopted pursuant to AMC 13.02. Modest fees and charges (sufficient to cover maintenance) may be assessed for use of City publication boxes. City boxes shall be assigned by lot. No fees or charges shall apply to publication boxes under the interim regulations. Privately owned publication boxes will continue to be permitted on private property, with the permission of the owner, and in designated areas and free speech zones, provided they do not interfere with ingress and egress pursuant to Building and Fire Codes.

### 13.03.040 Application, Permit Fees and Rates

The form of the application for occupancy or encroachment on sidewalks shall be established by Resolution of the Council. The application fees and square footage rates or gross sales rates, if any, shall also be established by resolution of the City Council. The Resolution approving such fees and rates shall provide for the annual adjustment of fees and rates by the CPI for the previous calendar year, without the need to formally amend the resolution. Notwithstanding the above the City Administrator may establish separate applications for exempted or limited activities or interim regulations or waive the application requirement for specified occupancies by written Order.

### 13.03.050 Permit Application

A. Application for an annual permit or agreement to occupy or encroach on sidewalk for the limited purposes authorized herein any purpose, inclusive of commercial activity [e.g. sidewalk dining], shall be made at the Public Works Department on an approved application form together with the required fees and charges. The application for permit or agreement shall minimally contain:  
(1) A completed application form, signed by the abutting property owner and occupant; and,

- (2) A submittal in full of the rental rate equal to the annual (12 month) rental rate for the square footage of the adjacent sidewalk permit area requested; and,
- (3) A scale diagram of the sidewalk permit area, with dimensions and the location and description of all structures, materials and activities shown; and
- (4) An executed standard form release, hold harmless, and Indemnity agreement, as well as certificates of insurance and endorsement form.
- (5) Other information shall be provided as required by the Public Works Director to carry out the purpose of this chapter.

The Public Works Director shall forward all applications for review to the Fire Marshall, Building Official and the Director of the Community Development Department. Reviewing Departments shall provide input as to conflicts with City codes, including but not limited to Building, Fire and Land Use Codes. If the proposed use is not in compliance with zoning and land use regulations and approvals the use shall be denied.

### 13.03.060 Criteria

A. The Public Works Director shall review the application for its strict compliance with the mandatory criteria listed below. There are no variances or exceptions to the criteria of this ordinance.

1. Location Within a Permitted Zone. Permits and agreements for occupancy or use of the sidewalk permit area are available only if the property is located in one of the following zoning districts: C-1-D (Commercial Downtown), C-1 (Commercial), or E-1 (Employment).

2. Use of Building Occupant. A sidewalk permit area may be approved only for use of the adjacent occupant, with the consent of the property owner, if different.

3. Six Foot Clearance Except as specified on the Downtown Sidewalk Usage Map, and consistent with AMC 10.64.010, there shall be at least six (6) feet clear and unobstructed passageway between the sidewalk permit area boundary and any City owned or controlled fixtures or structures, including but not limited to fire hydrants, benches, barriers, street trees, bike racks, lamp posts, sign posts, or the curb edge, whichever is closest. The Public Works Director may require more than six feet if necessary to accommodate pedestrian movement and ADA access.

4. Other Placement Standards.

Except as specified on the Downtown Sidewalk Usage Map, neither the sidewalk permit area itself, nor any object located therein shall be placed, installed, used or maintained:

- a) Within six feet (6') of the outer edge of any roadway.
- b) Within ten feet (10') of any crosswalk



- c) Within six feet (6') of any fire hydrant or other emergency facility
- d) Within ten feet (10') of any driveway or alley entrance/exit
- e) In the public right of way within any un-authorized zoning district, including all residential zoning districts
- f) Within 3 feet (3') from either end of approved bicycle parking U-racks
- g) Within the footprint of any bus stop areas.
- h) Within fifteen feet of an intersection.

Notwithstanding the above, certain functional items [e.g. publication boxes] may be located within 24 inches of the roadway edge/ curb face.

#### 5. Materials and construction standards.

All temporary structures or object (including furnishings such as tables and chairs), placed in the sidewalk permit area shall be of a weatherproof and sturdy construction, (i.e. solid wood, iron, non-corrosive metal cement, or similar material). Except when otherwise specified in a Council Resolution, plastic is prohibited as suitable material for structures and furnishings; similarly, materials which stain or damage the sidewalk are prohibited. Said items shall comply fully with all applicable regulations, including building codes, land use ordinances and Resolutions of the city. The City Council may adopt by Resolution material and construction standards, [including typicals], for public furnishings placed in the sidewalk permit area.

6. Maintenance and installation standards. Any item placed, installed or maintained within the sidewalk permit area shall be subject to the following maintenance standards:

- a) No object shall be chained, bolted, or otherwise attached to any fixture, tree or city functional item located in the public right of way, nor shall any object be attached to the surface of the right of way.
- b) Objects shall be designed and constructed to be movable by one person and where practical, wheels shall be attached or attachable to allow for ease of movement.
- c) Objects placed in a sidewalk permit area shall not be used to violate any other applicable code, including provisions and limitations on signage.
- d) Objects, such as furnishings, placed in the sidewalk permit area shall have information affixed to the exterior of the object including the name and address of the owner and the name of the establishment with which the object is associated including an emergency contact number.
- e) Objects occupying the sidewalk permit area shall be maintained in a clean and orderly condition and in good repair at all times. This includes but is not limited to maintaining a condition which is reasonably free of dirt, rust and grease. The item is reasonably free of chipped, faded, peeling or cracked paint. All structural and/or moving parts are in working order and

pose no safety hazard to the public. Any glass or plastic (such as display windows) are unbroken and reasonably free of cracks, dents, blemishes and discoloration.

- f) Objects must maintain a weather proof or weather resistant quality.
- g) Objects shall be designed to be stable and self supporting under a wind load of at least 20 pounds per square foot without attachment to the pavement or any other object

7. Illegal structures or usage. No sidewalk permit area will be approved if the permit area or six foot clearance area adjacent to the permit area contains structures, fixtures, obstructions or materials which have been illegally placed or affixed to or in the City right-of-way. For purposes of this ordinance Illegal structure or usage includes not only items placed or activities conducted without a permit but also items or activities which were initially placed or conducted lawfully but for which the owner/operator has failed to maintain current payment to the City.

8. Minimum Square Footage. The sidewalk permit area is a minimum of fifty (50) square feet or as otherwise designated on the Downtown Sidewalk Usage Map. This provision does not apply to interim regulations for publication boxes.

9. Minimum Duration. The minimum duration of the permit is yearly (twelve months, whether or not the entire year is available for use). This provision does not apply to interim regulations for publication boxes.

10. Arrearages to the City or Pending City Violations. No sidewalk permit area will be approved for one year after a person or entity applying for the permit has been found in violation or is currently subject to an active violation proceedings for violation of the City of Ashland Municipal Code concerning or relating to the activity to be conducted in the permit area. This includes but is not limited to actions for failure to maintain business license, arrearages of other delinquency in food and beverage tax receipts, transient occupancy taxes or unpaid balances under the prior sidewalk dining ordinance.

11. Alcoholic beverages. The Public Works Director shall forward all applications for review by the City Recorder for any proposed use which involves alcoholic beverages. Written approval of the designated City official in accordance with City ordinances is required for any such proposed use, in addition to state regulatory requirements.

12. Liability Release, Indemnity, Hold Harmless, and Insurance. No sidewalk permit area will be approved without an executed release agreement and insurance certificates as required by AMC 13.03.070.

13.03.070 Liability Release, Indemnity, Hold Harmless Agreement and Insurance

Prior to the issuance of permit, Permittee shall:

A. Furnish a signed Release, Hold Harmless and Indemnity agreement, in the City standard form, that the permittee shall release and hold the City of Ashland harmless, as well as defend, indemnify and hold harmless the City, its officers and employees, from any and all claims for damages to property or injury to persons which may occur in connection with an activity carried on under the terms of the permit. The agreement shall also release the City from any and all liability to the Permittee.

B. Furnish and maintain such personal injury, property damage and general liability insurance as will protect permittee 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 the amount of municipal tort liability under the Oregon Tort Claims Act. Such insurance shall be without prejudice to coverage otherwise existing, and shall name the City, its officers and employees, as additional insureds, and shall further provide that the policy shall not terminate or be canceled prior to the expiration of the permit without 30 days written notice to the City.

C. For functional items and items subject to interim regulations, the standard agreement language may be incorporated into standard applications and/or permits forms and insurance requirements to add the city as additional insured shall be deemed waived.

### 13.03.080 Conditions of Permit

#### A. Requirements for all sidewalk permit areas:

1. Each permit issued shall terminate December 31st of the year in which it is issued, or earlier as specified on the face of the permit. Requests for renewals shall be filed with the Public Works Department prior to the expiration of the original permit. Renewals filed prior to expiration require a deposit of only six (6) months rental rate, unless the applicant has previously been in arrears in which case the deposit shall be the full annual rental rate. The Public Works Director may approve, approve with additional conditions, or deny the request for renewal. Unless fees are waived for the type of request, no application shall be accepted for renewal without a renewal application fee, as specified on the City Council Fee resolution.

2. The permit issued shall be personal to the permittee only and is not transferable in any manner.

3. The permit may be temporarily suspended by the Public Works Director in the event of an emergency as provided in AMC 2.62 or upon approximately forty-

eight hours advance notice if the public interest requires use of the right-of-way or sidewalk permit area for a public event, construction, repair, or any other purpose. The City will attempt to provide notice of said suspension as soon as practical. The City shall not be responsible for any loss or damage claimed by the permittee for such closure, except that permittee shall be entitled to a refund of the rental rate based on a pro rated calculation of rates based on days of closure.

4. The permit is specifically limited to the area approved or as modified by the Public Works Director, and will include a diagram indicating the area approved and the location of the materials permitted to be in the right-of-way.

5. Only those things authorized by the permit and shown on the diagram may be placed in the sidewalk permit area. Should the permittee not utilize the sidewalk permit area as authorized for a period of seventy-two (72) hours or more, all the materials shall be removed.

6. All required federal, state, and local permits and authorizations for the proposed use, [e.g. food service OLCC] shall be obtained and complied with prior to the occupancy, including specifically any access modifications or parking improvements required to be completed prior to the commencement of the occupancy.

7. Issuance of this permit does not authorize violation of any federal, state or local law, including City sign regulations.

8. Smoking shall not be allowed in any sidewalk permit area.

9. Sidewalk permit areas must be supervised by permittee or its employees, except for functional items or items subject to temporary regulations. [but see special regulations]

10. The permit authorizing use of the sidewalk permit area must be visibly displayed during occupancy of the permit area.

11. The City of Ashland has the right to repeal or amend this Chapter and thereby terminate or modify all private sidewalk usage or operations. No permittee shall obtain any property right in the continued private use of the public sidewalk.

#### 13.03.090 Denial, Revocation, or Suspension of Permit

A. The Public Works Director may deny, revoke, or suspend the permit upon finding that any provision of this chapter or condition of approval has been violated. The permit or agreement shall be suspended if the rental rate is not fully paid within three working days of the due date or if the Permittee fails to maintain

required insurance. The permit or agreement shall be suspended if the Permittee fails to strictly abide by the boundaries of the sidewalk permit area.

B. The Public Works Director shall give notice of denial, revocation, or suspension to the applicant or permittee in writing stating the action which has been taken and the reason therefor. The action shall be effective immediately for a denial and upon the expiration of the appeal period [10 days] for a suspension or revocation. Appeals shall be processed as provided in AMC 2.30. If an appeal of a suspension or revocation is properly filed, the suspension or revocation shall be stayed until resolution of the appeal. Upon hearing the matter, the City Administrator shall render a final written decision. This remedy is not exclusive, the City may also cite violations to Court, (including daily fines) in addition to the remedy set forth above.

13.03.095 Constitutionally Protected Activity. Nothing in this ordinance prohibits or restricts constitutionally protected speech and expression which does not obstruct the free flow of pedestrian traffic on the sidewalk and right-of-way.

13.03.100 Interim Special Regulations for Publication Boxes. In addition to all other applicable criteria, standards and requirements in AMC 13.02 and 13.03, the following special regulations for publication boxes are imposed.

A. Unless otherwise designate on the Downtown Sidewalk Usage Map, any publication box placed in whole or partially within the right of way shall be located in groupings with a linear dimension of no greater than twelve feet. Publication boxes shall be placed immediately abutting other publication boxes within the approved grouping location. A publication box grouping shall be placed a minimum of 200 feet from the closest existing grouping on the same side of the street. All publication boxes shall be 24 inches off the curb face to minimize conflicts between vehicle doors opening into the sidewalk.

B. Unless otherwise designated in the Resolution establishing standards for functional items, no individual publication box shall exceed five feet in height, thirty inches in width or two feet in thickness unless specifically approved by the Public Works Director for publication boxes that serve multiple publications/vendors/distributors.

C. Publication boxes shall contain a system to prevent contents from spilling out of the container such as clasping door systems, spring loaded auto closing doors, etc.

D. Each publication box shall be designed, installed and maintained to protect the contents from weather related hazards such as wind, rain, snow, etc

E. Each publication box shall display only its contents in a clear glass or plastic window.

**F. In the event a publication box remains empty of its contents and unused by its owner for a period of more than 30 consecutive days, the publication box shall be deemed abandoned and is subject suspension or revocation or summary abatement as outlined herein.**

### **13.03.110 Penalties**

**A. Knowingly occupying or encroaching upon a public right-of-way without the permission of the City shall be considered a Class C misdemeanor offense, subject to the limitations of AMC 1.08.**

**B. Any violation of the requirements of this chapter, not addressed in A above, shall be a Class A violation as defined by AMC 1.08 and punishable as set forth in that section.**

**C. The City Administrator or designee is authorized to issue a citation to any person violating the provisions of this chapter. Issuance of a citation shall trigger revocation of the permit or agreement under Section 13.03.100 and in the event of conviction, no permit shall be issued to the same person, entity or address, for a period of at least two years.**

### **13.03.115 Summary Abatement.**

**If the condition of any item in the City right of way, including any street or sidewalk is such that it creates a risk of serious injury to the persons or property, the Public Works Director is authorized to pursue summary abatement in accordance with Chapter 1.08 and to charge against the responsible owner/operator the full costs of such abatement.**

**SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 5. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 6. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered,

provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1, 4-6) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors..

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:

\_\_\_\_\_  
Richard Appicello, City Attorney



Planters here

## **ROW Encroachment Guidelines**

**The City of Ashland, Oregon  
Updated June 10, 2009**

DRAFT





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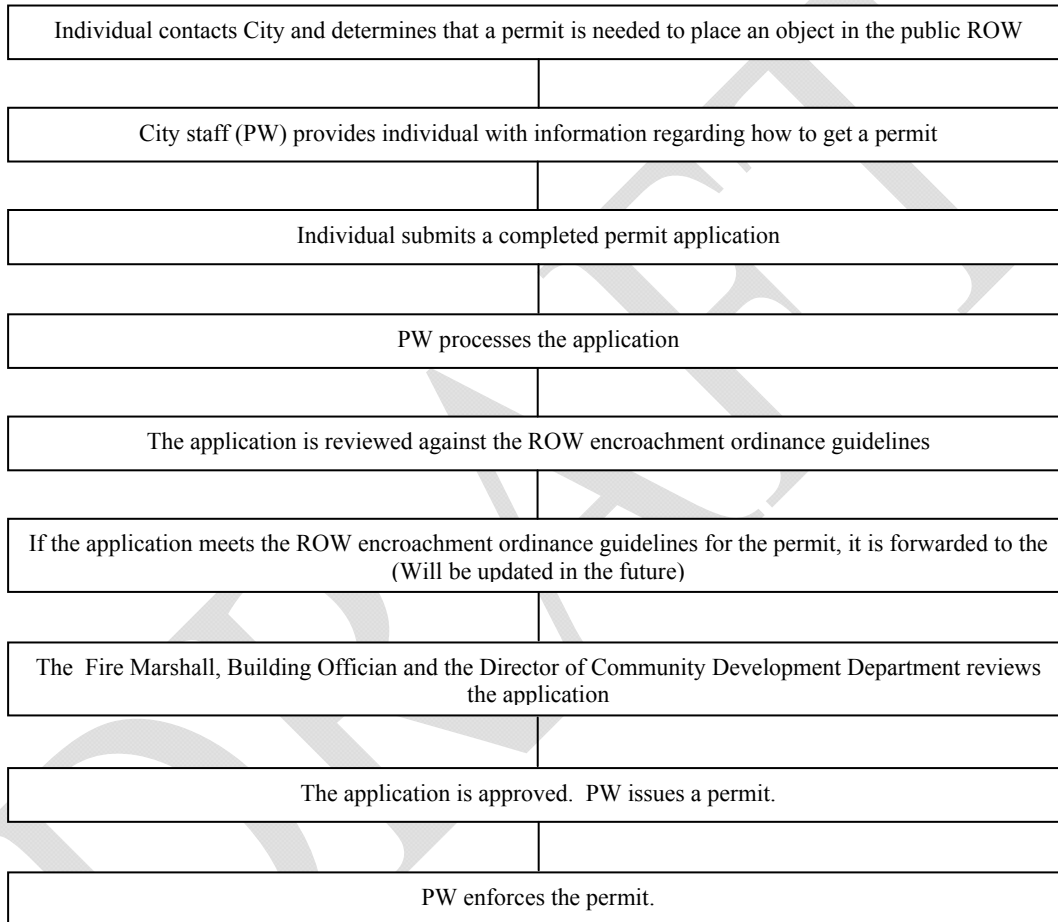
## Right-of-Way Encroachment Guidelines

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### ***Introduction***

All of the items listed in this document – newspaper racks, sidewalk cafés, planters, and benches – require a permit that can be obtained from the City of Ashland Public Works Department (PW). For information regarding the permit process, please contact the PW staff, (541)488-5347. The basic permit process is shown as a flow chart below.

### ROW Encroachment Permit Process Example



### ***Purpose***

The purpose of this document is to prescribe the place and manner for requirements for the placement of encroachments upon any public right-of-way within the City of Ashland. These requirements are set forth to protect and promote the public health, safety, and welfare of citizens of the City. This is accomplished by eliminating potential hazards to motorists and pedestrians using the public streets, sidewalks, and rights-of-way. Property values are safeguarded and enhanced by consistent application of design standards.

***Definitions***

**Street furniture:** Street furniture refers to equipment installed on streets and roads in the public right-of-way for various purposes, including benches, planters, trash receptacles, cigarette disposal containers, street trees, and newspaper stands.

**Encroachment:** An encroachment is any structure, building, fixture, sign, or other object belonging to any person who has constructed, installed, or placed on, in, over, or under any public street, public sidewalk, or public right-of-way, other than encroachments which will remain in place for a temporary period of time not in excess of one (1) year.

**Temporary sidewalk planter:** An object suitable for growing plant material that can be placed in the right-of-way that is not a permanent fixture and can be removed at any time.

**Sidewalk café:** An outdoor extension of an existing premise licensed as a restaurant.

**Public trash receptacle:** A container placed in the public right-of-way for trash collection.

**Encroachments that require a permit**

Planters

Benches

Newspaper Stands

Sidewalk Cafés

DRAFT

## ***Planters***

### **Purpose**

The purpose of this section is to provide for consistent application of design guidelines for planters in the public right-of-way. Planters are a desirable element as they can be decorative and can add an element of beauty and identity to individual shops and street corners. For the purpose of these guidelines, temporary planters are distinguished from permanent planters by the function of movability and structure.

### **Definitions**

**Temporary:** As used here, temporary defines an object that can be placed in the right-of-way that is not a permanent fixture and can be removed at any time.

**Temporary sidewalk planter:** An object suitable for growing plant material that can be placed in the right-of-way that is not a permanent fixture and can be removed at any time.

### **Requirements**

**Required height:** Temporary planters will have a height of not less than eighteen inches and not more than 54 inches.

**Required weight:** Temporary planters will have a minimum gross weight of fifty (50) pounds, but once full of material, the weight will not be such that sidewalk damage will occur.

**Required Placement:** Temporary planters may be placed flush against a building. Structure and plant material must allow a six-foot clearance for pedestrians.

**Required plant materials:** Temporary planters should be well maintained.

**Required structure:** Temporary planters should be able to withstand gusting winds and attempts to kick them over.

## *Benches*



### **Purpose**

The purpose of this section is to provide for consistent application of design guidelines for benches in the public right-of-way. Benches are a desirable element, as they can be decorative, and they can be functional sculptural pieces. Benches should be provided for those using the public space in downtown.

### **Definitions**

**Bench:** A bench is an object placed in the public right-of-way to provide opportunity for sitting. A bench has a seat and may have an armrest and a back.

**Chair:** A chair is a movable piece of furniture consisting of a seat, legs, back, and sometimes armrests, for use by one person.

### **Background**

The provision of public seating is encouraged in appropriate locations in the public right-of-way. Public seating is an important element in furnishing outdoor rooms. Plazas, squares, and wide sidewalks are all intended for pedestrian use and should be furnished in a manner that promotes that use. Benches can combine with planters and other elements of street furniture. Coordinated street furniture is encouraged.

### **Requirements**

**Bench structure:** A bench should have a sitting area of about thirty six (36) inches and a backrest that extends at least twenty four (24) inches above the sitting area. A backrest is not a required feature. A bench should have an armrest, although an armrest is not a required feature. A bench, or a planned sitting area, should be about seventeen (17) inches off the ground.

## *Newspaper Stands*



### **Purpose**

The purpose of this section is to provide guidelines for consistent application of newspaper stands. Newspaper stands are an element of street furniture that can change rapidly. There are currently several daily, weekly, and monthly publications in the City of Ashland. All of these publications need distribution space. Some publications are for sale and need a distribution source where money can be exchanged for the product. These guidelines provide codification for the design of structures to promote consistent standards for newspaper distribution structures in the public right-of-way.

### **Definitions**

**City Provided Multiple Unit News Racks (MUNR):** A multiple unit news rack is a structure designed to hold newspapers and publications and to facilitate the sale or distribution of for fee or free publications.

### **Background**

Private companies are prohibited from chaining, locking, or attaching in any way a newspaper box or stand in the public right-of-way in the downtown area. To prevent theft of newspaper boxes and reduce clutter, it is desirable to assemble them in designated areas in coordinated MUNRs that can be bolted to the sidewalk. Reducing the amount of clutter in the public right-of-way works to promote public safety, clear passage, and ease of sidewalk maintenance.

### **Requirements**

Should a company desire to secure a newspaper rack, box, or stand in the public right-of-way in the areas within the downtown, staff recommends and promotes the use of MUNR. The aesthetic of the design of MUNR will be controlled by the Public Works Director. The units must be expandable. The Director of Public Works Operations must approve the safe construction standards constituent with the ordinance. The design of MUNR should prevent abuse, damage, and attempt at vandalism. The Public Works Department is responsible for the installation and maintenance of MUNR in the downtown. The City will designate locations for MUNR in areas of good visibility and pedestrian traffic. Should a newspaper distributor elect to be part of a MUNR, the newspaper distributor will enter into a written agreement with the City to use the MUNR exclusively in all areas where the units are provided.

No MUNR shall be located in whole or in part on private property without the express written consent of the property owner or the owner's representative, and in no case shall a MUNR be located at any location so as to obstruct the clear-view triangle of street intersections or street and driveway intersections, or so as to otherwise interfere with the clear and unobstructed vision and



cross view of motorists at street intersections, driveways, or alleys. MUNR shall be located such that a minimum of six feet for pedestrian travel space remains available on the sidewalk.

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## ***Sidewalk Cafés***



### **Purpose**

The purpose of this section is to provide for consistent application of design guidelines for sidewalk cafés. Sidewalk cafés add a festive element to downtown. A sidewalk café is a logical extension of a restaurant or bar into the public right-of-way. Outdoor eating and drinking during good weather is enjoyable, and it adds an element of people watching and interaction to outdoor spaces in the Center City.

### **Definitions**

**Sidewalk café:** A sidewalk café is an outdoor extension of an existing premise licensed as a restaurant.

### **Requirements**

Outdoor premises may occupy portions of the public right-of-way provided that a minimum six foot clearance is left for pedestrians to pass on the sidewalk. Public alleyways may not be used for sidewalk cafés.

Generally, colors shall contribute to the urban character of the downtown.

### **MAINTENANCE**

1. Outdoor premises shall be kept broom clean at all times; planters must be kept clean of debris and dead plant life; painted improvements on public right-of-ways must be kept freshly painted and free from rust.
2. Materials for sidewalk cafés can be left out year round per the discretion of the business owner(s). Materials for the sidewalk café must be in compliance with the maintenance section requirements at all times.
3. The owner of the sidewalk café is responsible to maintain the property during all seasons, including the removal of snow and ice.
4. To promote security, staff recommends that tables and chairs be locked together or taken inside every evening to prevent theft and damage.

**From:** Martha Bennett  
**To:** Adam Hanks; Bill Molnar; Diana Shippet; Mike Faught; Richard Appicello  
**Date:** 6/11/2009 3:07:25 PM  
**Subject:** Fwd: Re: Upcoming ordinance at Council

Hello all - I told Curtis we would attach this email to the Council packet. Diana - Please attach to the second right of way ordinance (the one I scribbled all over).

thanks

This email is official business of the City of Ashland, and it is subject to Oregon public records law for disclosure and retention. If you have received this message in error, please let me know.

Martha Bennett, City Administrator  
(541) 552-2103

>>> Sneak Preview <[sneakpre@mind.net](mailto:sneakpre@mind.net)> 6/10/2009 10:39 AM >>>  
Hi Adam,

I am a very small player in this game of newspaper racks. I have only ONE rack downtown in front of Louie's (well, there's one in front of Starbucks, also, but I don't care about it). The owner of Louie's has given me permission to be there. I would strongly urge an addendum to the ordinance that says, "If a publication wants to limit itself to only ONE location downtown and has the cooperation of the business owner, they should be allowed to do so."

This week I'll be coming out with my Best of Ashland Collectors edition. I will put a rack next to my regular rack in front of Louie's for five months. I go through 800 copies a week at that location because the tourists love it, and that rack is in a perfect place with a lot of foot traffic. If I were to join your program with the multi-publication boxes, there would have to be 15-20 of those racks spread out around the downtown to get the same results. The way I'm doing it now—by limiting myself to ONE location—is a lot more efficient. Please consider the addendum above.

I agree that all the multiple racks can look junky, but in an open society that relies on the free dissemination of information, it's not really a bad thing, is it?

Curtis

On Jun 10, 2009, at 12:18 AM, Adam Hanks wrote:

> Curtis,  
>  
> I wanted to check in with you and make sure that you were aware of  
> the final leg of the 2008 Downtown Task Force ordinance that will  
> again be in front of the City Council in their upcoming meeting on  
> June 16th. As I am sure you are aware, the taskforce had three  
> primary issues; the downtown employee parking ban, sign code  
> "tweaks" and the use of the right of way for display/storage of  
> merchandise. At the request of the task force, the issue of  
> newsrack placement and standards was also included in the right of

> way issue.

>

> We discussed the matters with the Council in a study session on  
> June 4th and again in the Council meeting on June 5th. Minutes  
> are available at <http://ashland.or.us/Agendas.asp>.

>

> Of the many details that the Council has yet to provide specific  
> direction is how the newsrack placement and standards regulations  
> will be structured. One option is to have the free publications  
> have the option of being located in a multi publication box  
> provided by the City in several key downtown locations and have  
> publications that require payment (coin operated) to have a permit  
> and a fee since they are more commercial in nature. The basic  
> issue was organizing the racks, creating spacing requirements to  
> avoid the look of the racks in front of the Chamber and to include  
> spec's that would give the City the ability to remove racks that  
> are no longer in use or are not maintained to certain standards.

>

> Given your interest in the task force in general and your obvious  
> interest as a publication distributor, I wanted to make sure that  
> you were in the loop and knew the schedule so you could provide input.

>

> I will be out of town until next Wednesday and would be very glad  
> to meet with you then or have a phone conversation about the  
> issues. If you are desiring some discussion prior to next week  
> with me, either Bill Molnar or Mike Faught are up to speed and  
> could provide you with some information.

>

> I will be checking e-mail while I am out and I would be glad to  
> respond to specific questions that way as well or schedule a time  
> for us to meet next week.

>

> Thanks,  
> Adam

>

>

> Adam Hanks | Permit Center Manager  
> City of Ashland, Dept of Community Development | 51 Winburn Wy |  
> Ashland, OR 97520  
> (541) 552.2046 | (541) .488 . 6006 | [adam@ashland.or.us](mailto:adam@ashland.or.us)

>

>

> This email is official business of the City of Ashland, and it is  
> subject to Oregon public records law for disclosure and retention.  
> If you have received this message in error, please contact me at  
> (541) 552-2046. Thank you.

>

## Attachment II

### Part 2 changes to be read:

#### 13.03.060.A

**5. Materials and construction standards. All temporary structures or object (including furnishings such as tables and chairs), placed in the sidewalk permit area shall be of a weatherproof and sturdy construction, (i.e. solid wood, iron, non-corrosive metal, cement, or similar material).**

**8. Minimum Square Footage. Except for functional objects, the The sidewalk permit area is a minimum of fifty (50) square feet or as otherwise designated on the Downtown Sidewalk Usage Map. This provision does not apply to interim regulations for publication boxes.**