

8 – BUSINESS

Compilation Number	Ordinance Number	Subject
8-1	[Repealed]	
8-2	[Repealed]	
8-3	[Repealed]	
8-4	[Repealed]	
8-5	[Repealed]	
8-6	1766	Cable Television Regulation
8-7	[Repealed]	
8-8	1925 as amended by 2008	Public Dances
8-9	[Repealed by 2399]	
8-10	2336	Film Permit Process
8-11	2399 as amended by 2426	Business Registration
8-12	2425	Permitting of Newracks

ORDINANCE NO. 1766

AN ORDINANCE RELATING TO THE CONSTRUCTION, OPERATION, REGULATION AND CONTROL OF CABLE COMMUNICATIONS SYSTEMS WITHIN THE CITY'S TERRITORIAL LIMITS.

THE PEOPLE OF THE CITY OF WOODBURN DO ORDAIN:

[The substance of this ordinance is not reproduced here because of its great length. The full text of the ordinance is on file for public reference in the office of the City Recorder.]

Passed by the Council September 21, 1981, and approved by the Mayor September 22, 1981.

ORDINANCE NO. 1925

AN ORDINANCE PROVIDING FOR THE REGULATION OF PUBLIC DANCES; REPEALING ORDINANCE NO. 1299; AND DECLARING AN EMERGENCY.**THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

Section 1. Public Dance Defined. A "public dance" is any dance not held in a private home or residence which is open to the general public.

Section 2. Exclusions. Provisions of this ordinance shall not apply to dances conducted as follows:

(a) Dances on premises regularly licensed by the Oregon Liquor Control Commission when such licenses are in effect.

(b) Dances or dancing instruction conducted by private dancing schools conducted exclusively for the purpose of giving instructions in dancing.

(c) Dances sponsored by public schools or church organizations on their property.

(d) Dances conducted by nonprofit clubs or fraternal, charitable or religious organizations to which admission is limited to members and to guests of a member.

Section 3. Necessity for License. No public dance shall be held until a license is obtained under this ordinance.

Section 4. Application for Issuance of License.

(a) Application for a license to hold a public dance shall be made in writing to the City Recorder at least 14 days prior to the date of the proposed dance. An application for an annual public dance license shall be accompanied by a fee of \$300.00, \$250.00 of which shall be refunded in the event such license is denied. An application for a license for a single public dance shall be accompanied by a license application fee of \$50.00, no part of which shall be refundable in the event such license is denied. An annual public dance license shall be effective for one year from the date of issue. However, individual application for each public dance to be held shall be required as provided above.

(b) The application shall be signed by the applicant and by not less than two residents of the City of Woodburn. The residents shall certify that the applicant is of good moral character and shall request that such a license be issued to the applicant.

(c) The application shall contain the names of persons employed by the applicant to be in charge of providing security and control of said public dance. There shall be a minimum of two (2) such persons employed by the applicant for each dance. The persons so employed shall be over the age of 21 years.

8-8.4**8-8.7**

(d) The application shall contain all such information as may be relevant to the character and background of the applicant, his security personnel required by Subsection (c) above, and his associates and partners, if any.

(e) The City Recorder shall forward the application to the Police Chief for investigation and may withhold issuance of a dance license until the application has been investigated and approved by the Police Chief. Upon approval by the City Recorder and Police Chief, the City Recorder shall issue the dance license.

Section 5. License Non-Transferable. Public dance licenses issued pursuant to this ordinance shall not be transferable.

Section 6. Hold Harmless Provision. By applying for and accepting a public dance license the applicant shall be deemed to have agreed to indemnify and hold harmless the City of Woodburn, its officers, boards, commissions, agents, and employees against and from any and all claims, demands, causes of actions of any kind or nature whatsoever which arise as a result of the issuance of the public dance license.

Section 7. License Denial, Cancellation and Revocation.

(a) Approval of a dance license shall be denied if the required application is incomplete, false or fraudulent or if the applicant, his security personnel, or partners or associates have, in the previous two years, violated the terms of a public dance license or of this ordinance. Prior conviction of the applicant of a felony or misdemeanor involving moral turpitude may be grounds for denial of a license when considered in the light of an applicant's entire background. Denial of a dance license may be based upon previous disruptive behavior having occurred at a public dance promoted, sponsored or held by the applicant, within the previous two years. Disruptive behavior may also be grounds for revocation or suspension of a license by the City Administrator.

(b) The City Administrator may cancel or revoke any dance license after it has been issued, if it is learned that the same was procured by fraud or false representation of fact.

(c) The applicant may appeal to the City Council from the decision of the city administrator in refusing to issue a public dance license, or revoking or canceling a license previously issued.

(d) All appeals to the City Council shall be in writing and filed with the city recorder within three days from the date of notice of the city administrator's decision. All appeals shall be heard by the City Council at its next regular meeting.

(e) The decision of the City Administrator shall not be stayed during the pendency of the appeal to the City Council. The City Council shall review the denial, suspension or revocation appealed from, and the action of the City Council shall be final.

Section 8. Use of Return Checks Prohibited.

(a) No person shall give to any person leaving a dance hall a return check or other token whereby readmission to such dance hall can be obtained without the payment of a fee the same as on original admission.

(b) No person leaving a dance hall shall receive any such ticket or token or gain readmission without paying the same fee as upon original admission.

(c) The provisions of this section shall not affect in any way readmittance during or after a regularly scheduled intermission.

Section 9. Closing Hours. All public dances shall be discontinued and all dance halls shall be closed on or before 12:30 a.m.

Section 10. Alcoholic Beverages Prohibited.

(a) The use of alcoholic beverages is prohibited at a public dance except that a person granted a license under this ordinance may serve and dispense alcoholic beverages for use on the premises of the public dance if that person has a valid special events permit issued by the Oregon Liquor Control Commission.

(b) The necessity of obtaining a license under the ordinance in no way relieves a person from complying with the rules and regulations of the Oregon Liquor Control Commission and any other applicable law.

Section 11. Authority to Terminate Dance. The City Administrator or Chief of Police shall have the authority to terminate a public dance without notice for non-compliance with this ordinance or other applicable law.

Section 12. Civil Infraction Assessment. A violation of any provision of this ordinance constitutes a class 2 civil infraction and shall be dealt with according to the procedures established by Ordinance 1998. [Section 12 as amended by Ordinance 2008 passed October 24, 1988.]

Section 13. Severability. Each portion of this ordinance shall be deemed severable from any other portion. The unconstitutionality or invalidity of any portion of this ordinance shall not invalidate the remainder of the ordinance.

Section 14. Repeal and Saving Clause.

(a) Ordinance No. 1299 is hereby specifically repealed.

(b) Notwithstanding Subsection (a) of this section, Ordinance No. 1299 shall remain valid and in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated Ordinance No. 1299 prior to the effective date of this ordinance.

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Section 15. [Emergency clause.]

***Passed by the Council September 9, 1985, and approved by the Mayor
September 11, 1985.***

ORDINANCE NO. 2336

AN ORDINANCE ESTABLISHING A FILMING PERMIT PROCESS; SETTING FEES; PROVIDING FOR PENALTIES; AND DECLARING AN EMERGENCY.

[Whereas clauses.]

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Permits for Filming Required. All persons or legal entities shall obtain a filming permit prior to filming motion pictures, commercials or videotaped productions within the Woodburn City limits. This requirement shall not apply to films made by amateurs or to the filming of news events by accredited representatives of news agencies.

Section 2. Issuance of Filming Permit. Filming permits shall be issued by the City Administrator or the City Administrator's designee.

Section 3. Application. A written application for a filming permit shall be filed with the City Administrator or designee at least fourteen (14) days prior to filming, unless waived by the City Administrator. The application shall include:

1. The name and contact information of the person, firm, or corporation employing the person or persons who will perform the filming.
2. The name and contact information of a person who will be responsible for the filming crew on location in the City.
3. The specific date, location, time of arrival on the filming site and duration of filming (including site preparation, site restoration, and departure) for each scene to be filmed within the City limits.
4. The extent to which normal use of public property/right-of-way will or could be impaired or curtailed during filming.
5. The number and location of vehicle parking spaces that will be needed during filming and the anticipated hours of use of the spaces.
6. The number of police or other City personnel desired or needed for traffic and/or pedestrian control, security of equipment, or other purposes during filming.
7. Written authorization from the property owner if private property is to be used in conjunction with public property during filming.
8. The processing fee as set by this Ordinance.

Section 4. Review of the Application.

1. The City Administrator or designee shall review the application and may issue the permit if the City Administrator or designee finds that the filming permit will not:

- a. Adversely impact the public health, safety or welfare;
- b. Adversely impact the affected neighborhood(s) or business district(s);
- c. Result in a cost to the public due to the use of public property or facilities, potential loss of public revenue, or provision of City personnel, unless the City is compensated for such costs by the applicant;
- d. Substantially inconvenience residents or businesses; or
- e. Substantially interfere with the public peace or the quiet enjoyment of private residential property.

2. The City Administrator or designee may impose conditions on a permit in order to alleviate or mitigate any potential adverse impacts described in subsection 1 of this section.

3. The City Administrator or designee may deny the application if he or she determines that the permit will result in any of the potential adverse impacts described in subsection 1 of this section which cannot be alleviated or mitigated by the imposition of conditions.

4. An approved filming permit shall:
- a. Specify the location and time of use of any City property that will be affected by filming.
 - b. Set forth any conditions or restrictions imposed by the City Administrator or designee pursuant to subsection 2 of this section.
 - c. Require a deposit of funds prior to filming in an amount estimated by the City Administrator or designee to be sufficient to compensate the City for any public costs described in subsection (1)(c) of this section incurred as a result of the filming. In the event that filming is cancelled, the City shall refund the deposit minus an amount for any costs incurred by the City up to the date of cancellation.
 - d. Require the delivery of a certificate of insurance prior to filming in an amount determined by the City Administrator or designee to be sufficient to protect the City from any and all liability arising out of the filming activity. The certificate of insurance shall name the City of Woodburn as an additional insured.

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Section 5. Appeals.

1. Any decision regarding an application or the conditions of a permit may be appealed by the applicant to the City Council by filing a written notice of intent to appeal with the City Recorder. The notice shall be filed within seventy-two (72) hours of receipt of the decision by the applicant and shall include a statement of the reasons for the appeal and an appeal fee. The filing of an appeal shall stay the permit until the appeal is decided by the Council.

2. In reviewing the appeal, the Council shall determine whether the decision complies with the criteria and requirements of Section 4 of this ordinance. The Council may affirm, reverse or modify the decision. The Council's decision shall be final.

Section 6. Compensation for Public Costs. The applicant shall compensate the City for any and all public costs described in Section 4.1. If the deposit required pursuant to Section 4.4c is insufficient to cover such costs, the applicant shall remit the balance to the City upon receipt of written notice of such additional costs.

Section 7. Permit Application Fee. An application for a filming permit shall be accompanied by a fee in the amount of \$1,000.00.

Section 8. Appeal Fee. An appeal under Section 5 of this Ordinance shall be accompanied by an appeal fee in the amount of \$300.00.

Section 9. Violations. A violation of any provision of this Ordinance or of any term or condition of an approved filming permit is a Class 1 civil infraction and shall be enforced pursuant to the Civil Infraction Ordinance.

Section 10. Severability Clause. If a portion of this Ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this Ordinance.

Section 11. [Emergency clause.]

Passed by the Council May 12, 2003, and approved by the Mayor May 14, 2003.

ORDINANCE NO. 2399

AN ORDINANCE PROVIDING FOR THE REGISTRATION OF BUSINESS WITHIN THE CITY OF WOODBURN; ESTABLISHING A REGISTRATION PROCESS; AND PROVIDING A PENALTY FOR VIOLATION THEREOF; AND SETTING AN EFFECTIVE DATE.**THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

Section 1. Purpose. The registration required and restrictions imposed by this ordinance are enacted primarily for the purpose of regulation of businesses. The public's interest is served by insuring that regulated businesses will be carried on in continuing compliance with applicable laws and ordinances and in a manner which does not detract from the public health, safety, or welfare. In addition, this ordinance is enacted to recoup the necessary expenses required to undertake the administration and enforcement of this ordinance and to provide revenue for law and code enforcement purposes. The payment of a registration fee required hereunder and the acceptance of such fee and issuance of a business registration certificate by the City shall not entitle the registrant to carry on any business not in compliance with all the requirements of City ordinances and all other applicable laws.

Section 2. Definitions. For the purpose of this ordinance, the following terms, phrases, and words are defined as follows:

A. "Business" means any vocation, occupation, profession, enterprise, establishment, or any activity, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the City. This definition includes any transaction involving the rental of property, the manufacture or sale of goods, or the sale or rendering of services other than as an employee.

B. "The City" means the City of Woodburn, Oregon.

C. "City Council" means the City Council of the City of Woodburn, Oregon.

D. "City Administrator" means the City Administrator or any officer or employee designated by that person to perform duties described in this ordinance

E. "Garage Sale" means a commercial activity, open to the public, conducted at a private residence where personal property is sold or auctioned to others, provided the number of sale days at a particular residence does not exceed three (3) days per occurrence, and no more than two (2) occurrences per calendar year.

F. "Person" means and includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations or any officers, agents, employees or any kind of personal representatives thereof, in any capacity, either on that person's own behalf or for any other person, under either personal appointment or pursuant to law.

8-11.2

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G. "Home occupations" means businesses that conform to the definition of Home Occupations under chapter 2.203.12 in Woodburn Development Ordinance as determined by the City Administrator.

H. "Residential Rental Unit" means separate living quarters, which are rented, leased, or let in exchange for full or partial monetary compensation.

I. "Government Entities" means the federal government, the State of Oregon, a county, a special district, or a municipality.

Section 3. Registration Required.

A. No person shall engage in any business within the City or transact any business specified in this ordinance, without first obtaining a registration certificate and paying the fee prescribed. The provisions of this ordinance shall be in addition to any other fee or registration requirements imposed by the City of Woodburn, unless otherwise specified.

B. A person engaged in business in more than one location, or in more than one business registered under this ordinance at the same location, shall make a separate application for each business or location, provided however that the fee for second and subsequent businesses shall be twenty dollars (\$20.00). Warehouses and distributing plants used in connection with and incidental to a business shall not be deemed a separate place of business. Separately franchised operations shall be deemed separate businesses even if operated under the same name.

C. A person representing himself/herself, or exhibiting any sign or advertisement that he/she is engaged in a business within the City shall be deemed to be actually engaged in such business and shall be liable for the payment of such registration fee and subject to the penalties for failure to comply with the requirements of this ordinance.

D. No person shall maintain or operate two or more residential rental units without first obtaining a business registration certificate and paying the prescribed fees.

Section 4. Exemptions. The following entities and types of activities are exempt from regulation under this ordinance. The person asserting an exemption under this ordinance shall have the burden of establishing eligibility for the exemption.

A. Nothing in this ordinance shall be construed to apply to any person transacting or carrying on any business within the City of Woodburn, which is exempt from taxation, by the City by virtue of the Constitution of the United States or the Constitution of the State of Oregon.

B. No person whose income is based solely on a wage or salary shall, for the purpose of this ordinance, be deemed a person transacting or carrying on any business in the City, and it is the intention that all registration taxes and fees will be borne by the employer.

8-11.4**8-11.5**

C. Any business paying a franchise tax or transient occupancy tax under City ordinances is exempt from the requirements of this ordinance.

D. Persons whose sole business activity is making deliveries or taking orders from duly registered businesses within the City are exempt from this ordinance.

E. Activities conducted pursuant to a special events permit issued by the City are exempt from the requirements of this ordinance.

F. Producers of farm products raised in Oregon, produced by themselves or their immediate families, who sell, vend, or dispose of such products within the City is exempt from this ordinance. [Section 4F is repealed by Ordinance No. 2426 passed November 26, 2007.]

G. Nonprofit organizations, religious organizations, civic organizations and clubs wishing to canvass for funds or sell door-to-door to raise funds, or conduct fund-raising events to be used solely for the purpose for which the organization was created, and from which no third party receives a profit are exempt from the requirements of this ordinance.

H. A builder who is registered under ORS 701.055 and is employed as a subcontractor working for a contractor possessing a valid business registration issued by the City of Woodburn is exempt from this ordinance.

I. Garage sales as defined in this ordinance are exempt from the requirements of this ordinance.

J. Any person required to be licensed through any other City ordinance including, but not limited to activities such as, peddlers and solicitors," "public dances," or other licensed activities is exempt from this ordinance.

K. Government entities are exempt from the requirement of this ordinance.

Section 5. City Administrator Authority.

A. The City Administrator may adopt reasonable rules and regulations in order to carry out the provisions of and for enforcement of the provision of this ordinance. The Administrator shall prescribe forms for business registration application. The Administrator shall review or cause to be reviewed application for and renewals for business registrations, and shall submit such applications to appropriate City departments for investigation to determine and comment on the applicant's compliance with City ordinance and other rules.

B. The City Administrator shall have the authority to approve, approve with conditions, or deny any application for or renewal of a business registration. If the Administrator determines that the application should be denied or approved with conditions, the Administrator shall notify the applicant in writing of the decision. The

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notice shall state the reason for the decision and inform the applicant of the provisions for appeal. If the Administrator's decision is to approve without conditions, issuance of the registration is notification of the decision and it does not need to state any reason or appeal rights.

Section 6. Application Requirements.

A. Application for business registration shall be made to the City at least 30 days prior to the date the registration is requested to be effective. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of the business to be registered and shall provide for other information as may be requested by the City Administrator. The application shall be signed by the applicant and shall constitute the applicant's consent for the City to conduct an investigation of the applicant's request including permission to enter property to be used in conducting the business. The applicant shall submit information necessary to evaluate the applicant's request and to determine compliance with applicable City of Woodburn ordinances. If the applicant fails to supply information so required or submits false or misleading information, the registration may be denied and if issued, may be revoked.

B. Applications shall be accompanied by any required fee. Application fees shall be non-refundable.

Section 7. Criteria for Approval or Denial.

A. Approval or denial of an application for initial issue or renewal shall be based on consideration of all available evidence indicating whether or not the applicant meets the requirements of City ordinances. In the event no grounds exist for denial of a certificate, a certificate shall be issued.

B. Any of the following may be grounds for denial of the certificate:

1. Any false or incomplete statement made or acknowledged on the application form; provided, however, that in the event such statement is the result of excusable neglect, the applicant may resubmit an application with appropriate corrections.

2. The business activity would not comply with City ordinances and could not be made to comply through the imposition of appropriate conditions.

3. A previous history of unlawful business activity by the applicant, which, if continued would be grounds for revocation of the certificate.

4. The business activity would endanger persons or property.

Section 8. Registrations and Renewals.

A. Business registration is valid for one year.

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B. Business registrations shall be renewed by the payment of the annual fee on or before the anniversary date of the original issuance of the business registration.

C. The renewal application will indicate any change in use, ownership, or location of the business.

Section 9. Term, Transfers and Relocations.

A. Term: A business registration issued under this ordinance shall be valid for one year from the date of issuance.

B. Transfer: In the event of the transfer of ownership of any business, the applicable registration certificate may be transferred by application to the City Administrator. An application shall be accompanied by a transfer fee.

C. Relocation of Existing Business: In the event a business relocates, the business shall reapply to the City Administrator to transfer the business registration.

Section 10. Fee.

A. As of the effective date of this ordinance fees shall be:

1. All businesses, excepting home occupation businesses, shall pay an annual fee of fifty dollars (\$50.00).

2. Home occupation businesses shall pay a reduced annual fee of twenty-five dollars (\$25.00).

3. The transfer of ownership fee shall be twenty dollars (\$20.00).

B. Future fees shall be set as part of the Master Fee ordinance.

Section 11. Use of Revenue. Revenue derived from Business Registration fees shall be used to recoup the cost of administering and enforcing the program. Any fees collected in excess of amounts necessary to recoup the costs of program administration and enforcement shall be dedicated to support the activities of the Police Department's Community Response Team. Elimination of that team or a permanent reduction of that team below FY 2005-06 staffing levels, by City Council policy choice, shall trigger a review of Sections 10 and 11 of this ordinance.

Section 12. Revocation of Registration. The City Administrator, upon determining that unlawful business activity is occurring or has occurred, or that a business would not qualify for a license pursuant to this ordinance, shall notify the licensee in writing that the license is to be revoked. The notice shall be sent at least thirty (30) days before the date of revocation. If the activity giving rise to the need for the revocation proceedings is discontinued, the City Administrator may terminate the proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the provisions for appeal.

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Section 13. Appeal.

A. A business whose registration has been denied renewal, or is to be revoked, may within thirty (30) days after the notice of denial, or revocation is mailed, appeal in writing to the City Council. The appeal shall state:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the proposed determination of the appeal should be.

B. An appellant who fails to file such a statement within the time permitted waives his/her objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The City Council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate.

C. At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence as used by courts of law do not apply, and the decision of the City Council after the hearing is final.

Section 14. Display Required. All registration certificates issued in accordance with this ordinance shall be openly displayed in the place of business or kept on the person or on the vehicle of the person registered. Failure to display or carry such registration shall be deemed a violation of this ordinance.

Section 15. Violation – Penalty.

A. A violation of any provision of this ordinance constitutes a Class 2 civil infraction and shall be processed according to the procedures contained in the Woodburn Civil Infractions ordinance.

B. A finding that a person has committed a violation of this ordinance shall not act to relieve the person from payment of any unpaid business fee, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

Section 16. Delinquency Charge. In addition to the business registration fee required by this ordinance, a delinquency charge in the amount of 50% of the applicable fee shall be assessed if the annual renewal fee is not paid within 15 days after the anniversary date of the original issuance of the business registration.

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Section 17. Severability. Each portion of this ordinance shall be deemed severable from any other portion. The unconstitutionality or invalidity of any portion of this ordinance shall not invalidate the remainder of this ordinance.

Section 18. Effective Date. This ordinance shall be in full force and effect on April 17, 2006.

Passed by the Council March 13, 2006, and approved by the Mayor March 15, 2006.

ORDINANCE NO. 2425

AN ORDINANCE REGULATING THE PLACEMENT AND PERMITTING OF NEWSRACKS AND DECLARING AN EMERGENCY.

[Whereas clauses.]

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. General Findings. The City Council of the City of Woodburn finds and declares that:

A. It is in the public interest to establish regulations that balance the right to distribute information through newsracks with the right of persons to reasonably access and use public property. The City Council wishes to provide for the placement of newsracks, stands, containers and similar newspaper and publication vending machines to provide a forum for communication while preserving the convenience of those using the public rights of way. Newsracks placed and maintained on public property, absent some reasonable regulation, may unreasonably interfere with the use of such property, and may present hazards to persons or property.

B. The public health, safety, welfare, and convenience require that: interference with vehicular, bicycle, wheelchair or pedestrian traffic be avoided; obstruction of sight distance and views of traffic signs and street-crossing pedestrians be eliminated; damage done to sidewalks or streets be minimized and repaired; the good appearance of public property be maintained; trees and other landscaping be allowed to grow without disturbance; access to emergency and other public facilities be maintained; and ingress and egress from, and the enjoyment of store window displays on, properties adjoining public property be protected.

C. The regulations on the time, place and manner of the placement, location and maintenance of newsracks set forth in this Ordinance are carefully tailored to ensure that the purposes stated in this section are implemented while still providing ample opportunities for the distribution of information to the public.

D. The City Council finds that newsracks have proliferated and increased in the City to the extent that they must be addressed by this Ordinance. Exhibit "A" describes examples of the proliferation of newsracks in the city.

Section 2. Special Findings for the Urban Renewal Core Area. The City Council of the City of Woodburn finds and declares that:

A. The City has made a substantial monetary and policy commitment to revitalize its Urban Renewal Core Area, that area described in Exhibit "B" of this Ordinance.

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B. The City Council passed Ordinance 2298 on August 13, 2001, which adopted the Woodburn Urban Renewal Plan. The Woodburn Urban Renewal Plan is incorporated into these findings by this reference.

C. The purpose of the Woodburn Urban Renewal Plan is to rehabilitate and redevelop blighted areas consistent with the Woodburn Comprehensive Plan.

D. A key component of the Woodburn Urban Renewal Plan is to enhance livability by making improvements in the Urban Renewal Core Area. This area encompasses Woodburn's downtown. It is pedestrian and bicycle friendly. Under the Woodburn Urban Renewal Plan, planned improvements in this area include street, sidewalk, landscape and lighting improvements, street furnishings and public art, building renovations and façade improvements, creation of public spaces, business incubation and small businesses assistance.

E. On August 21, 2005, the Woodburn Downtown Plaza was dedicated as part of the first phase of the improvements made through the Woodburn Urban Renewal Plan. The Plaza is in the center of the Urban Renewal Core Area and contains a water fountain, lawn, 8 benches, and the future location of a gazebo. Pedestrians regularly walk through the Plaza and sit on the benches.

F. The Urban Renewal Core Area is also a historic area, containing the oldest existing structures in Woodburn. Much of the construction is of un-reinforced masonry dating from the late Nineteenth Century.

G. The City Council passed Ordinance 2313 on April 9, 2002, which adopted the Woodburn Development Ordinance. The Woodburn Development Ordinance is incorporated into these findings by this reference.

H. The Woodburn Development Ordinance was also intended to enhance livability in the Urban Renewal Core Area through special zoning regulations in the form of a Downtown Development and Conservation District. Under the Woodburn Development Ordinance, Architectural Design Guidelines apply to exterior alterations to existing buildings and require that "materials, colors, and textures used in the alteration or addition should be fully compatible with the traditional architectural character of the historic building."

I. The Urban Renewal Core Area also has a higher crime rate than other areas of Woodburn. Street crimes, gang activity, vandalism, and the application of graffiti are ongoing problems that the City continues to address in this area. Exhibit "C" describes the concentration of graffiti and other property crimes in this area as compared to the rest of the city.

Section 3. Purpose.

A. The general purpose of this Ordinance is to promote the public health, safety, and welfare through the regulation of placement, appearance, number, size, and servicing of newsracks on public rights of way so as to:

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1. Provide for pedestrian and driving safety and convenience;
2. Prevent unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into, or egress from, any residence, place of business, or from the street to the sidewalk, by persons exiting or entering parked or standing vehicles;
3. Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs or signals, hydrants and mailboxes, and access to locations used for public transportation services;
4. Reduce visual blight on the public rights of way and protect the aesthetics of store window displays, public landscaping and other improvements;
5. Reduce exposure of the City to personal injury or property damage claims and litigation; and
6. Protect the right to distribute information that is protected by state and federal constitutions through the use of newsracks.

B. The purpose of the Additional Standards for newsracks in the Urban Renewal Core Area is to:

1. Require newsracks to be constructed of steel, a material more resistant to acts of vandalism (i.e., cutting and burning the newsrack) than lighter and weaker construction materials.
2. Require newsracks to be constructed of steel so that they are uniform in appearance and compatible with the architectural character of the historic buildings in this area.
3. Require that newsracks weigh at least 80 pounds. This weight requirement ensures that they are not easily vandalized, stolen or thrown into the public right-of-way. Newsracks made of lighter materials are not appropriate for installation in the Urban Renewal Core Area because the larger number of pedestrians and higher rate of crime in this area make it more likely that the newsracks could be thrown into the right-of-way and cause damage to persons and property.
4. Require newsracks to have coin mechanisms housed in the body of a newsrack or in armored heads welded or bolted to the body of a newsrack so that the newsracks are not subject to vandalism or theft.
5. Require newsracks to be painted or covered with a protective coating to make them graffiti resistant. This facilitates quick removal of graffiti so that criminal conduct and gang activity is discouraged.

Section 4. Definitions. For the purpose of this Ordinance, these words and phrases are defined as follows:

8-12.4**8-12.6**

A. *Business day* means Monday through Friday, inclusive, of every week excepting holidays for which the city is closed to official business.

B. *City Administrator* means the Woodburn City Administrator or designee.

C. *Newsrack* means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used, or maintained for the display and sale or distribution without charge of newspapers, periodicals, magazines or other publications.

D. *Owner* means the person or its duly authorized representative who owns a newsrack placed in the City.

E. *Parkway* means the area between the public sidewalk and the curb of any public street and where there is no public sidewalk, the area between the property line/right of way line and the curb.

F. *Permit* means a permit issued pursuant to this Ordinance which allows for the placement of a newsrack within a specifically designated portion of a sidewalk or parkway.

G. *Person* means any individual, firm, company, corporation or other organization.

H. *Roadway* means that portion of a public street improved, designed or ordinarily used for vehicular travel.

I. *Sidewalk* means any surface dedicated to the use of pedestrians by license, easement, and operation of law or by grant to the city.

J. *Street* means all of that area dedicated to public use for public street and sidewalk purposes and includes, but is not limited to, roadways, parkways, alleys, service drives and sidewalks.

K. *Urban Renewal Core Area* is that area located close to downtown Woodburn and described specifically in Exhibit "A" to this Ordinance.

L. *Vision Clearance Area* is that area defined by Section 3.103.10 of the Woodburn Development Ordinance.

Section 5. Permit and Decal Required. It shall be unlawful for any person to place, maintain, or cause to be placed, or maintained a newsrack on, or projecting on, any public right-of-way without first receiving a permit from the City for the newsrack and affixing a decal evidencing such permit on the newsrack.

Section 6. Permit.

A. An application for a newsrack permit shall be made to the City Administrator on a form which shall include:

8-12.6**8-12.7**

1. The name, street and mailing address, email address, and telephone number of the applicant, which shall be the duly authorized representative of the newsrack owner.

2. The name, street and mailing address, email address, and telephone number of both the publisher, if different from the applicant, and, the independent distributor(s), if any, authorized to service the owner's newsrack(s) for which the permit is sought.

3. The name, street and mailing address, email address, and telephone number of the applicant's designated representative, if different than applicant, whom the City shall give notice under this ordinance or contact at any time concerning the applicant(s) newsrack(s).

4. A description of each proposed newsrack, including its dimensions and signage, and whether it contains a coin-operated mechanism.

5. The name and frequency of the publication proposed to be contained in each newsrack.

B. A separate application shall be required for each publication.

C. If the application is properly completed and the type of newsrack and location proposed for each newsrack meets the standards set forth in this Ordinance, the City Administrator shall issue a permit within 5 business days from the date the applicant files the application. A single permit shall be issued for all newsracks applied for by an applicant that meet the standards of this Ordinance. A permit shall not be transferable.

D. A permit shall be valid for 1 year.

E. The permit application fee shall be \$50.00, and the decal fee shall be \$10.00 per newsrack. All fees imposed under this Ordinance shall be paid to the City Administrator at the time the application is filed and may be adjusted from time to time.

F. Each permittee shall be issued a pre-printed decal for each permitted newsrack, which shall be affixed to the lower right or left corner inside the window opening on the front of each newsrack.

Section 7. Denial of Permit. If the application is incomplete or the type of newsrack and location proposed for a newsrack does not meet the standards set forth in this Ordinance, the City Administrator shall deny the permit application. If the newsrack permit is denied, in whole or in part, the City Administrator shall, by certified mail, notify the applicant within 5 business days from the date of filing a completed application, explaining the reasons for the denial of the permit. The applicant shall have 10 business days from the date the certified letter is mailed to correct and resubmit the application or to appeal the decision, in writing, to the Woodburn Municipal Court.

8-12.8

8-12.9

Section 8. Appeal. The Woodburn Municipal Court shall conduct a hearing within 30 days of receipt of the applicant's written appeal request. Written notice of the time and place of the hearing shall be provided to the applicant at least 10 business days prior to the date of the hearing. The Woodburn Municipal Court shall render a written decision within 15 business days after the date of the hearing.

Section 9. General Placement and Location Standards for Newsracks.

A. A person may not install, use or maintain a newsrack on any public right-of-way if the newsrack:

1. Endangers public safety;
2. Interferes with public utility, public transportation, or other governmental use; or
3. Interferes with or impedes:
 - a. Pedestrian or vehicular traffic;
 - b. Entry or exit from a residence or business;
 - c. Access to a legally parked or stopped vehicle;
 - d. Use of a traffic sign or signal, emergency call box, transit shelter, bus stop, elevator, mailbox, or other public service; or
 - e. Access to use of a delivery area or loading zone.

B. A newsrack shall not be placed upon any portion of the public right-of-way that abuts the Vision Clearance Area.

C. Except as otherwise provided in this Ordinance, a newsrack requiring a permit under this Ordinance shall be placed or maintained on any public right-of-way in compliance with the following standards:

1. Every newsrack shall be placed so as to open toward the street.
2. If multiple newsracks are permitted at the same location, all such newsracks must be placed together in a straight line and abutting adjoining newsracks and no group of newsracks shall extend for a distance of more than 10 feet.
3. No newsrack shall be chained or otherwise attached to any parking meter, kiosk, trash receptacle, street light, utility pole or device, sign pole, stand pipe, transit shelter, bus bench, bus stop, or to any tree, shrub or other plant, or other structure.
4. No newsrack shall be placed, installed or maintained:

8-12.9**8-12.9**

- a. Within 5 feet of any fire hydrant, emergency call box, or other emergency facility.
- b. Within 5 feet of any parking meter, bench, kiosk, trash receptacle, tree well, utility pole, signal pole, sign pole, stand pipe, or control cabinet.
- c. Within 10 feet of any transit shelter, bus bench or designated bus stop. The distance requirement shall be measured from the roof of any transit shelter, the edge of any bus bench, or the pole sign for any designated bus stop.
- d. Within 10 feet of any alley, loading zone, disabled ramp or curb cut.
- e. At any location where the clear space for the passage of pedestrians after placement or installation is less than 4 feet, or as required by ADA Accessibility Guidelines, whichever is greater.
- f. Within 3 feet of or on any area of flowers or shrubs or similar landscaping, or in such a manner where ordinary use of the newsrack will cause damage to such landscaping.
- g. Within 3 feet of any commercial window display.
- h. Within 3 feet of or in such a manner as to block or cover any portion of an underground utility vault, manhole, or other sidewalk underground access location.
- i. In such a manner as to be permanently affixed to any sidewalk, street or other property of the City.
- j. Within 20 feet of any crosswalk.

D. Subject to the other provisions of this section, a newsrack requiring a permit under this Ordinance may be placed on the parkway adjacent to a sidewalk when placement of the newsrack on the sidewalk would reduce clear passage for pedestrians as provided in this Ordinance. In this case, the newsrack should open toward the sidewalk.

E. In the event the City must expand or otherwise reconfigure public right-of-way or make improvements thereto to improve the adjacent street, sidewalk, or for other public purpose, any and all newsracks displaced by such improvements shall be removed by the permittee at the permittee's sole cost and expense and in accordance with the instructions of the City. Wherever possible, and only in accordance with the requirements of this ordinance, the City shall attempt to allow the relocation of any newsracks displaced as provided herein to the newly reconfigured right-of-way without additional permit fee; provided, however, where such right-of-way will no longer accommodate newsracks in accordance with the requirements of this

8-12.9

8-12.12

ordinance, the City shall not be obligated to provide alternative or other sites for such displaced newsracks.

Section 10. General Construction and Maintenance Standards for Newsracks.

Any newsrack requiring a permit under this Ordinance shall:

- A. Be in a clean condition and in good repair.
- B. Be constructed, installed, and maintained in a safe and secure condition.
- C. Be made of solid material on all sides; no wire or other open form of newsrack will be permitted.
- D. Be maintained so that it is free of graffiti.
- E. Be affixed with a decal, issued by the City, evidencing the issuance of a permit under this Ordinance.
- F. Be affixed with identifying information, which shall contain the name, address and telephone number of the newsrack owner and of the distributor of the publication contained therein. Such information shall be placed in a visible location on the front of the newsrack, and shall be legible.

Section 11. Additional Construction and Maintenance Standards for Newsracks in Urban Renewal Core Area. In addition to complying with the standards contained in Sections 9 and 10 of this Ordinance, any newsrack requiring a permit under this Ordinance that is located in the Urban Renewal Core Area shall meet the following additional standards:

- A. A newsrack shall be manufactured from 20-gauge or thicker zinc coated steel.
- B. A newsrack shall have a net weight of at least 80 pounds when not filled with newspapers, periodicals, magazines or other publications.
- C. Coin mechanisms, if any, shall be housed in the body of a newsrack or in armored heads welded or bolted to the body of a newsrack.
- D. A newsrack shall be painted or covered with a protective coating to make it graffiti resistant and promote the easy removal of any graffiti.

Section 12. Abandoned Newsracks. In the event any newsrack is severely damaged, or remains empty for more than 30 days, the newsrack shall be deemed abandoned, and may be seized and removed in the manner provided by this Ordinance.

8-12.13

8-12.14

Section 13. Seizure of Newsracks.

A. The City may seize and remove a newsrack if the person responsible for the newsrack has failed to obtain a permit under this Ordinance or where the newsrack creates an immediate danger to the public health, safety or welfare. The City Administrator shall provide notice to the owner, if known, by mailing a "Notice of Removal" to the last known address of the person.

B. Except for the instances specified in subsection "A" of this section, before any newsrack is seized, the designated representative shall be notified and provided 5 business days from notification in which to remedy the violation or to request a hearing to contest the seizure. A person notified under this subsection may make a written request for a hearing before the Woodburn Municipal Court.

C. If no hearing is requested after notice is given, the Woodburn Municipal Court may order the newsrack seized and disposed of. If a request for hearing is received, the Woodburn Municipal Court shall conduct a hearing within 30 days of receipt of the applicant's written request. Written notice of the time and place of the hearing shall be provided to the applicant.

D. The Woodburn Municipal Court shall render a written decision within 15 days after the date of the hearing.

E. The City shall hold any newsrack(s) seized under this section for 30 days from the date of seizure. The owner or designated representative may retrieve any seized newsrack(s) subject to a \$25 seizure and impound fee for each newsrack retrieved, to be paid at the time of retrieval. If a hearing has been requested, the City shall hold any seized newsrack(s) until the conclusion of all proceedings involving the newsrack(s), but not less than 30 days. At the conclusion of the appropriate time under this subsection, the City shall become owner of the seized newsrack(s) and may dispose of them as appropriate.

F. The owner of any newsrack(s) retrieved after seizure under this section, shall re-apply for a newsrack permit, pursuant to the requirements of this ordinance, prior to placing the formerly seized newsrack(s) back in the city.

Section 14. Enforcement.

A. A newsrack placed in violation of this Ordinance constitutes a public nuisance, and may be abated.

B. The City Attorney, after obtaining authorization from the City Council, may initiate a civil proceeding on behalf of the City to enforce the provisions of this Ordinance.

8-12.14**8-12.16**

C. In addition to, and not in lieu of any other enforcement mechanisms, a violation of any provision of this Ordinance constitutes a Class 1 Civil Infraction and may be processed according to the procedures contained in the Woodburn Civil Infraction ordinance.

D. Each day that a violation of this Ordinance is committed or permitted to continue shall constitute a separate Civil Infraction.

E. The remedies provided for in this Section are cumulative and not mutually exclusive.

Section 15. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 16. [Emergency clause.]

***Passed by the Council October 8, 2007, and approved by the Mayor
October 10, 2007.***