

ORDINANCE NO. 636

AN ORDINANCE PROHIBITING THE PLACING OF BENCHES OR PUBLIC SEATING SIDEWALK AREAS IN THE CITY OF PRINEVILLE WITHOUT FIRST OBTAINING A PERMIT TO DO, PROVIDING FOR THE ISSUANCE OF A PERMIT BY THE CITY POLICE CHIEF, IMPOSING PENALTIES FOR VIOLATION, AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF PRINEVILLE ORDAIN AS FOLLOWS:

Section 1. That no person, firm or corporation shall place benches or public seating upon the sidewalks or sidewalk areas in the City of Prineville without first obtaining a permit so to do from the City Police Chief of the City of Prineville as hereinafter provided.

Section 2. That upon proper application filed by applicant setting forth all relevant facts related to the request in question, the City Police Chief in the exercise of his sound discretion, issue a permit or permits to individuals, firms or corporations to place benches or public seating in areas in which the same are prohibited by Section 1 hereof.

The City Police Chief shall give consideration to the following factors in granting such permits and shall not grant the same unless he finds that to do so would not be detrimental to the public interest:

- A. Width of sidewalks or sidewalk area.
- B. Type of benches or public seating.
- C. Location of parking meters, light standards, crosswalks, building, utility poles and exit ways, streets, utility poles, alleys, loading zones, and other physical conditions and legal restrictions then existing or reasonably contemplated.
- D. Traffic Count.
- E. Purpose of applicant.
- F. Any other factors found by him to be relevant.

The City Police Chief shall designate in the permit or in an exhibit attached thereto the areas in which benches or public seating shall be allowed, the type of benches or public seating allowed, and any other condition or restriction that he deems necessary or expedient to protect the public interest.

Section 3. Each person, firm, or corporation placing benches or public seating under permit as herein provided shall comply with and be subject to the following general conditions and restrictions:

- A. The permittee shall abide by all of the terms, conditions and restrictions contained in the permit.
- B. The permit shall be nontransferable without prior written approval of the City Police Chief.
- C. The permit shall be revocable at any time with or without cause at the pleasure of the City Council and no expenditure of money, lapse of time, or other act or thing shall act as an estoppel against the City of Prineville or prevent the City from taking any action to give permittee or the owner of any property any vested right.
- D. The installation and care of such benches or public seating shall be at the sole cost and expense of the permittee without cost to the City, and the sidewalks and sidewalk areas in the vicinity of the benches or public seating structure served thereby shall be maintained in a good state of repair at the expense of the permittee.

G. That the permittee shall remove, replace, or relocate individual benches or seating as the public convenience or necessity warrants and at the request of the City Police Chief.

H. No permit issued hereunder shall become effective until the permittee shall have filed with the City Recorder proof of the existence of a pre-arranged liability insurance policy naming the City of Prineville, its officers, officials, employees and employes as named insureds; said policy shall have limits of \$100,000 or more for injury to one person in one accident, and \$100,000 or more in case of injuries to more than one person in any one accident, and \$25,000 or more for property damage. Said insurance shall indemnify said City, its officers, agents, officials and employes as specified in paragraph F hereof.

I. No permit shall be issued for the placing of any benches or types of seating which are for sale in or on the sidewalks or sidewalk areas, nor shall advertising be placed on any benches or seating; the purpose of the seating is for the convenience of the public only.

J. No permit shall become effective unless the permittee named therein shall simultaneously with the issuance thereof file with the City Police Chief a form approved by him a notice of acceptance of the terms, covenants, and conditions thereof and an agreement to abide by all of the terms, covenants, conditions, and obligations imposed on said permittee by this ordinance.

Section 4. Any applicant who feels aggrieved by any action taken by the City Police Chief hereunder may file a written appeal with the City Council of the City of Prineville setting forth in detail the reasons for such appeal and thereupon the City Council shall hear said appellant and any other relevant parties and thereupon may ratify the stand taken by the City Police Chief or take any action in relation to the applicant that the City Police Chief may take under the provisions hereof.

Section 5. Any person violating any provision of this ordinance shall, upon conviction thereof, be punished by imprisonment in the City Jail for a term not to exceed 30 days or by a fine not to exceed \$500, or both such fine and imprisonment. Each violation of a provision of this ordinance shall constitute a separate offense and each day or portion thereof over which the same violation occurs shall constitute a separate offense and each day or portion thereof shall constitute a separate offense.

Section 6. Inasmuch as the provisions of this ordinance are necessary for the immediate preservation of the peace, safety, good order and public welfare of the citizens of the City of Prineville, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its passage by the City Council and approval by the Mayor.

Adopted by the City Council this 2 day of July, 1969.

Approved by the Mayor this 2 day of July, 1969.


Bob Sell, Mayor