

ORDINANCE NO. 1038

AN ORDINANCE ESTABLISHING LICENSING REQUIREMENTS SIDEWALK VENDORS AND SIDEWALK CAFES

WHEREAS, the City of Stayton has adopted Title 5 of the Stayton Municipal Code (SMC) Regarding Business Licenses, Permits and Regulations;

WHEREAS, street rights of way, including the sidewalk, have been dedicated for public use;

WHEREAS, the City of Stayton has responsibility to assure that street rights of way remain available for public use and in conformance with the requirements of the Americans with Disabilities Act;

WHEREAS, from time to time businesses in Stayton have used portions of the sidewalks for the display of merchandise or for seating for table service customers; and

WHEREAS, the Stayton City Council recognizes that uses such as sidewalk cafes and sale and display of merchandise can promote a lively and vital downtown and wishes to continue to allow such uses in a manner that preserves the public purpose of the rights of way;

WHEREAS, the Stayton City Council, does find that the amendments in this Ordinance are reasonable regulations to promote the public health, safety and welfare.

NOW, THEREFORE, the City of Stayton ordains:

Section 1. Licensing Requirement Established. Stayton Municipal Code Title 5, Chapter 5.52, is hereby enacted as follows:

Chapter 5.52 CONDUCTING BUSINESS IN A STREET RIGHT OF WAY

5.52.010 Definitions

The following definitions apply unless inconsistent with the context:

1. **Manager:** The City Manager or the City Manager's designee.
2. **Permit Operating Area:** the area approved for conducting business under a sidewalk vendor permit.
3. **Sidewalk Cafe:** a duly licensed restaurant or café under state and local law, which obtains a sidewalk vendor permit to have seating and or customer service on the sidewalk as an extension of the regular service area of the restaurant or cafe.
4. **Sidewalk Vendor:** a business, which may include a sidewalk cafe, that obtains a sidewalk vendor permit to conduct business within the street right of way by means of displaying merchandise, providing table service, or providing seating for customers directly in front of the building in which the business is located.

5.52.020 General provisions

1. It is unlawful for a person to conduct business within a street right of way except as provided in this subchapter.
2. No person may conduct business within a street right of way without first obtaining a sidewalk vendor permit from the city.

5.52.030 Miscellaneous appurtenances

1. The Manager may approve, upon proper application, a provision of a sidewalk vendor permit to

allow installation of certain appurtenances on sidewalks, limited to planters, solid waste containers, benches, drinking fountains and bicycle racks within the permit operating area.

2. No advertising is allowed on the appurtenances under Section 5.36.030.1, except the acknowledgement of donors of same, which may be displayed on a plastic or metal plaque not to exceed 160 square inches in size.
3. In the event an appurtenance under Section 5.36.030.1 is deemed by the Manager to be in violation of the code, the sidewalk vendor permit may be revoked in whole or in part and:
 - A. The appurtenance deemed to be a violation will be removed by the city 10 days after providing written notice to the owner or person in charge; or
 - B. If the appurtenance is deemed by the Manager to be an immediate danger to the life, health, property or safety of the public, the Manager may remove the appurtenance immediately and bill the owner for the cost of removal and storage.

5.52.040 Sidewalk Vendors other than Sidewalk cafes

A business operating on a property adjacent to a public street may obtain a sidewalk vendor permit to conduct business in the street right of way subject to the following conditions:

1. The permit operating area must be placed directly in front of the associated establishment;
2. The permit operating area may not be placed within a curb extension (bulb-out) unless otherwise authorized by the Manager;
3. The permit operating area may not be placed in front of a building entrance and must leave unobstructed pedestrian travel space equal to the width of the doorway from the doorway to the curb line;
4. The permit operating area must leave unobstructed a linear five foot area of sidewalk;
5. The permit operating area must leave a two-foot buffer from the curb unless authorized by the Manager;
6. Decorative barriers, external to the permit operating area when used, must:
 - A. Be placed on the sidewalk to prevent pedestrians from walking into or through the permit operating area when approaching from lateral sides,
 - B. Have a bottom edge not more than 15 inches above the sidewalk and to exceed four feet in height,
 - C. Contain no advertising beyond identifying the name of the sidewalk café and its menu items and specials, and
 - D. Be constructed so that they are easily removed, readily accessible to the handicapped and easily detected by a sight impaired pedestrian;
7. Merchandise on display may be placed only in the 30-inch space most adjacent to the exterior wall of the building housing the business;
8. No vending machines are allowed in a permit operating area;

5.52.050 Sidewalk cafés

A duly licensed restaurant or café under state and local law may obtain a sidewalk vendor permit to conduct business as a sidewalk café subject to the following conditions:

1. The permit operating area must be placed directly in front of the associated establishment;

2. The permit operating area may not be placed within a curb extension (bulb-out) unless otherwise authorized by the Manager;
3. The permit operating area may not be placed in front of a building entrance and must leave unobstructed pedestrian travel space equal to the width of the doorway from the doorway to the curb line;
4. The permit operating area must leave unobstructed a linear five foot area of sidewalk, taking into account street trees, signs, parking meters, or other obstructions;
5. The permit operating area must leave a two-foot buffer from the curb;
6. Decorative barriers, external to the permit operating area when used, must:
 - A. Be placed on the sidewalk to prevent pedestrians from walking into or through the permit operating area when approaching from lateral sides,
 - B. Have a bottom edge not more than 15 inches above the sidewalk and to exceed four feet in height,
 - C. Contain no advertising beyond identifying the name of the sidewalk café and its menu items and specials, and
 - D. Be constructed so that they are easily removed, readily accessible to the handicapped and easily detected by a sight impaired pedestrian;
7. Tables to be used by standing customers may be placed only in the 30-inch space most adjacent to the exterior wall of the building housing the primary restaurant or café;
8. Only food and beverages prepared and offered for sale in the primary establishment may be served in the permit operating area and are under the same controls and conditions of service as in the primary establishment;
9. No vending machines are allowed in a permit operating area;
10. Table umbrellas are allowed with a minimum height of seven feet above sidewalk level in a permit operating area;
11. Dirty dishes and all debris must be promptly removed from a permit operating area;
12. Solid waste containers may be required in the permit operating area for the placement of solid waste by customers; and
13. Equipment in the permit operating area must be attended at all times.

5.52.060 Application for permit

Application for a sidewalk vendor permit must be made on a form provided by the Manager, with a separate application for each type of commodity or service and include, but not be limited to:

1. The names and addresses of the owner and all operators;
2. Copies of all necessary licenses and permits required by state or local authorities;
3. Identification of the type of business conduct;
4. The means to be used in conducting the business, including, but not limited to, a description of any mobile device to be used;
5. The specific location proposed;
6. A certificate of insurance that:

- A. Names the city, its officers and agents, as coinsured and co-indemnified for any damage to property or injury to persons which may result from the activity carried on under the sidewalk vendor permit;
 - B. Insures the permittee, property owners and the city from all claims which may arise from operation under the sidewalk vendor permit or in conjunction with it;
 - C. Provides coverage of not less than \$200,000 for bodily injury for each person, \$500,000 for each occurrence and not less than \$50,000 for property damage per occurrence or a combined single limit coverage of \$500,000; and
 - D. May not be terminated or canceled without 30 days' written notice to the city and so specifies;
- 7. If seeking the use of appurtenances under Section 5.52.030.1, photographs or detailed scale drawings showing the design and precise location proposed for such appurtenances;
 - 8. If seeking to operate a sidewalk café under Section 5.52.050, photographs or detailed scaled drawings of the proposed permit operating area and the portion of the restaurant or cafe connecting to same, showing the intended placement of barriers, chairs, tables and other appurtenances; and
 - 9. A nonrefundable fee, as set by council resolution to cover the cost of investigation and processing, must accompany applications for initial and renewal of sidewalk vendor permits.

5.52.070 Conditions of operation

- 1. Only business conduct as approved under the sidewalk vendor permit may occur.
- 2. A sidewalk vendor may not lead to or cause congestion or blocking of pedestrian traffic contrary to the limitations established in this Chapter.
- 3. A sidewalk vendor may not cause or allow loud or undue noise by vocalizing or through sound amplification.
- 4. A sidewalk vendor may not cause or allow an offensive odor as a result of the vendor's business conduct.
- 5. If a sidewalk vendor is selling edible items they must be immediately consumable.
- 6. If a sidewalk vendor is selling non-edible items, they must be easily carried by pedestrians and be pre-manufactured, prepackaged or previously handmade.
- 7. Any sidewalk vendor selling edible items must provide a solid waste container for use by customers.

5.52.080 Permit issuance

- 1. Review and Issuance. The Manager will review an application for a sidewalk vendor permit and may issue a permit after all the conditions under Section 5.52.040 or 5.52.050 are met and upon finding that use of the permit operating area is compatible with the public use of the sidewalk area and the proposed business conduct is deemed to be in the best interest of the public. In making this determination, the Manager will consider any pertinent information, whether submitted by the applicant or obtained by the Manager independently.
- 2. Denial and Appeal. If the application for sidewalk vendor permit is denied because the proposed location is determined by the Manager to be unsuitable, the applicant may file a written appeal with the city within 15 days of notice of denial. The council will then set, notice and conduct a hearing on the appeal of applicant.

5.52.090 Permits

Sidewalk Vendor Permits.

1. Will name the applicant and the conditions under which the sidewalk vendor permit is granted;
2. Expire one year from issuance;
3. Are not transferable in any manner;
4. Are valid only when used within the permit operating area designated on the sidewalk vendor permit; and
5. May be suspended for up to five days when the City authorizes a special event in the street on which the permit has been issued and provides a written notice to the permittee by either personal delivery or by mail via first class United States Postal Service at least five days prior.

5.52.100 Nonprofit organizations

1. Local nonprofit organizations may, upon approval of the application made to the city on a form approved by the Manager that includes written consent from the adjacent property and business owners or operators, conduct bake sales, rummage sales and other similar fundraising activities for a duration not to exceed three days, no more frequently than once per calendar quarter and only between 9 a.m. and 9 p.m.
2. The application under Section 5.52.100.1 must be accompanied by a fee, as set by council resolution, and a certificate of insurance conforming to Section 5.52.060.6.

5.52.110 Appeals

1. An appeal of a decision of the Manager will be heard by the Council.

5.52.120 Violations

1. A violation of the provisions of this Chapter will subject citation in Municipal Court.
2. Upon a finding of a violation by the Municipal Court the Court shall impose a fine in accordance with a Resolution adopted by the City Council. Each day the violation exists after notification shall constitute a separate offense.

Section 2. Effective Date. This Ordinance shall become effective on the 30th day after adoption by the Stayton City Council and execution by the Mayor, or a representative of the Mayor.

ADOPTED BY THE STAYTON CITY COUNCIL this 7th day of October, 2019.

Signed: 10/10, 2019

CITY OF STAYTON
BY: Henry A. Porter
Henry A. Porter, Mayor

Signed: 10/10, 2019

ATTEST: Keith D. Campbell
Keith D. Campbell,
City Manager