

Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. (The exception is formal land use hearings, which requires a specific public hearing process.)

**CITY OF NEWBERG
CITY COUNCIL AGENDA
NOVEMBER 15, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

I. CALL MEETING TO ORDER*

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER'S REPORT

V. PUBLIC COMMENTS

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

VI. CONSENT CALENDAR

Consider a motion approving City Council Minutes for October 18, 2010. (Pgs. 3-10)

VII. NEW BUSINESS

1. Update on the Land Use Board of Appeals Cases.
2. Discussion on rules for public spaces. (Pgs. 11-29)

VIII. COUNCIL BUSINESS

Discussion of the evaluation process for the municipal judge.

IX. EXECUTIVE SESSION

Executive Session pursuant to ORS 192.660(2)(e) relating to a real property transaction.

X. ADJOURNMENT

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Manager's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact Norma Alley, City Recorder, at (503) 537-1283.

Public testimony will be heard on agenda items at the Council meeting. The City Council asks written testimony be submitted to the City Recorder before 5:00 p.m. on the preceding Thursday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

THIS PAGE INTENTIONALLY LEFT BLANK

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: November 15, 2010

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Approve the October 18, 2010, City Council Meeting minutes.

Contact Person (Preparer) for this Motion: **Norma Alley, City Recorder**

Dept.: **Administration**

File No.:
(if applicable)

RECOMMENDATION:

Approve the October 18, 2010, City Council minutes for preservation and permanent retention in the City's official records.

EXECUTIVE SUMMARY:

On October 18, 2010, the City of Newberg City Council held a public meeting. At that meeting, minutes were recorded in text.

FISCAL IMPACT:

None.

STRATEGIC ASSESSMENT:

None.

**CITY OF NEWBERG CITY COUNCIL MINUTES
OCTOBER 18, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

Work Session was held prior to the meeting. A discussion on Council Guidelines and Rules continued. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:04 PM.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Denise Bacon	Ryan Howard
	Stephen McKinney	Bart Rierson	Marc Shelton
	Wade Witherspoon		

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Barton Brierley, Planning and Building Director	Steve Olson, Associate Planner
	Norma Alley, City Recorder	Jennifer Nelson, Recording Secretary

Others

Present: Robert Soppe, Hank Grum, Scott Cassidy, Dan Rouse, and Jim Talt

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, gave updates on the assessment of plans and renderings for the Cultural Center and the project for public spaces; a final report will be prepared at the end of November after public input. He gave updates from meeting with the Newberg Downtown Coalition, the success of the Farmer's Market, and mentioned George Fox University (GFU) marketing students will be helping with the survey of downtown businesses. There were also discussions with the Coalition about upcoming Halloween and Christmas events to bring more activity downtown.

Councilor Wade Witherspoon reported on the groundbreaking ceremony for Portland Community College (PCC) and their plans for building a "net zero" building to reduce the resource consumption and carbon footprint.

V. PUBLIC COMMENTS

Mr. Robert Soppe commented the city website did not accurately reflect which agenda items would be hearing public testimony this evening, according to the agenda, the third item on Electronic Signs is not closed.

Mr. Hank Grum referred to an article recently printed in The Newberg Graphic and spoke of what City Council does affecting the citizens' quality of life and pursuit of happiness. He spoke of the hardship caused on low income levels by utility rate increases being solved by creating a fund for assistance and the scope of

government being extended by this process; the government is creating another problem in the solution to the first one they created by raising the rates. He felt that little by little the citizens are being divided into groups of people with different criteria and essentially different classes, even with the affordable housing efforts as well. He did not feel this was following the spirit of either the federal or state constitutions. He also added that each tax disrupts commerce, benefitting some and hurting others and it all comes down to the amount of the tax and how much of peoples' freedom is being taken away.

VI. CONSENT CALENDAR

Consider a motion approving **City Council Minutes** for September 20, 2010.

MOTION: Shelton/Bacon approving the Consent Calendar including **City Council Minutes** for September 20, 2010. (7 Yes/0 No) Motion carried.

VII. PUBLIC HEARING

1. Consider a motion adopting **Ordinance No. 2010-2730** amending the Newberg Comprehensive Plan and Development code to meet planned densities and encourage needed housing types.

TIME – 7:20 PM

Mayor Andrews discussed which items were closed although not reflected on the agenda and council would need to decide which records to open or keep closed.

Councilor Witherspoon felt the first two items should remain closed, as they were published; but, since Ordinance No. 2010-2731 was not noted as closed on the agenda, it could be reopened.

MOTION: Witherspoon/Shelton to allow the public testimony records to remain closed for **Ordinance No. 2010-2730** and **Ordinance No. 2010-2732** and reopen the public testimony record for **Ordinance No. 2010-2731**. (6 Yes/1 No [McKinney]) Motion carried.

Mayor Andrews called for any conflicts of interest or abstentions; none appeared.

Mr. Barton Brierley, Planning and Building Director, presented the staff report assisted by a PowerPoint visual after a short recess for technical difficulties (see official meeting packet for full report).

Mayor Andrews closed the public hearing.

MOTION: Shelton/Rierson adopting **Ordinance No. 2010-2730** amending the Newberg Comprehensive Plan and Development Code to meet planned densities and encourage needed housing types.

Mayor Andrews discussed and clarified language on items in the report with staff regarding the target density ceiling, if items would be passed by resolution or ordinance, whether the report should say “may” or “shall” when referring to providing financial incentives, and the definition of special needs housing.

Councilor Marc Shelton spoke of some of the reasons why the Council wished to decouple the design standards from the code amendments and how affordable housing has been a goal of the people of Newberg so everyone working here can also live here and enjoy what Newberg has to offer. He did not feel this meant neighborhoods would have to change, but instead it would give opportunity to young people just out of school who have grown up here to be able to afford to buy a home here. He added that many members of the community have worked on this together and want to see it happen, not just at the Council level.

Councilor Stephen McKinney stated his support for affordable housing has waned because he feels it will significantly change the neighborhoods of Newberg and no protection is offered for those homeowners already sitting in R-1 zones. He also felt this would contribute to the already insufficient parking problem in the city and it would be even more difficult to proceed with getting permits and building homes without fitting this definition. He felt it would be depriving some of the liberties of people who have been living in Newberg by changing their property values with having inexpensive properties built next to more substantial homes. He felt this added an additional bureaucracy and felt it was out of the city's scope of responsibility. He did not feel he could support the proposal in any way.

Councilor Denise Bacon spoke of her expectation when she moved here twenty years ago and the changes in income levels since then verses the considerable changes in housing costs. She felt this is a way to offer the same opportunity people had twenty years ago to purchase a home they can afford, it is not trying to ruin someone's life. The City cannot thrive without bringing more people here and those already here want their children to be able to afford to live here. If changes are not made, that will not happen and the only people who will be able to buy a house in Newberg will be those who are rich and older; our kids will not be able to live here.

Councilor Ryan Howard asked staff about the local housing trust on page 16 and the City of Newberg housing trust fund on page 26 being the same thing and how it would be administered. Staff replied it refers to the same fund and the Affordable Housing Committee is working on that issue as a concept and the Council will have an opportunity to approve that trust fund in specifics later as a resolution. Councilor Howard asked how this proposal compares to what was approved with the Orchard's Lair project because he does not want the rest of Newberg to be sectionized like Orchard's Lair was; staff replied the Orchard's Lair project was unique although there are similarities.

Councilor Bacon said this is about reaching the target densities and if we have not reached our targets yet then we cannot justify asking for more land in the Urban Growth Boundary (UGB). This plan will help us focus on meeting those density targets and we can say we are doing what we said we would do, this looks better for us in the future.

Councilor McKinney spoke of the difficulties of the development behind Orchard's Lair being successful as an example of possible consequences of this type of building and he was concerned that builders and developers will look at the City of Newberg differently, which he did not feel would be a good this if this passes.

MOTION: Andrews/Rierson to amend **Ordinance No. 2010-2730** on page 23 striking the word "disability" when referring to special needs design and adding a #2 to read "This ordinance does not apply to properties where a zone change application is approved pursuant to an application pending at the time of adoption of this ordinance. The ordinance shall not apply where the applicable provisions have been modified by or are governed by a development agreement or specific plan" under the Ordains as Follows.

Councilor McKinney asked if anything is excluded from special needs housing such as halfway houses, or if these are exceptions to this, because some things may not be endorsed by the neighbors. Staff replied it is a broad definition and it is important to see how the term is used in the ordinance in terms of what the city may allow to give a reduction of parking.

VOTE: To amend Ordinance No. 2010-2730. (6 Yes/1 No [McKinney]) Motion carried.

VOTE: Adopting Ordinance No. 2010-2730 amending the Newberg Comprehensive Plan and Development code to meet planned densities and encourage needed housing types as amended and read by title only. (6 Yes/1 No [McKinney]) Motion carried.

2. Consider a motion adopting **Ordinance No. 2010-3732** amending the residential design standards in the Development Code.

TIME – 8:25 PM

Mayor Andrews called for any conflicts of interest or abstentions; none appeared.

Mr. Brierley presented the staff report assisted by a PowerPoint visual and stated the Planning Commission recommends approval (see official meeting packet for full report).

Councilor Bart Rierson asked if the optional proposed design standards are for extra special treatment or are they imposed on every builder and do they add costs. Staff stated they apply to any new subdivision or development, they are not an optional standard, but would be requirement for all.

Councilor Witherspoon wished to hear from a developer or contractor regarding these design elements to ensure that nothing seemed out of line or unreasonable. He understands the reason for them but not how they truly affect the builders. Staff replied two developers Mr. Mike Gougler and Mr. Mike Willcuts were on the committee, offered feedback, and recommended the proposal. This satisfied Councilor Witherspoon's concerns.

Councilor McKinney added he had conversations with both of these gentlemen and comments were made that this adds considerable bureaucracy and costs while trying to create something affordable.

Councilor Bacon said she was sorry to hear those developers changed their minds, but they sat in every meeting and went through each item to suggest those standards, like paint color or a porch, that did not add high cost, but significant changes. They looked at pictures showing neighborhoods with these elements and without and it made a huge difference.

Councilor Rierson reminded the Council the two proposals were not made independently and he was glad they were decoupled because the additional rules and constraints applied to the developers create less flexibility and added costs. He felt the market should decide the best way to do this and the builders are most prepared to decide on which design elements to include.

Councilor Shelton felt this ordinance goes beyond motivating affordable housing to mandating design standards that all builders and developers have to prescribe to. He does not agree with design standards, but likes recommendations and guidelines and letting the market decide what is built. He will vote based on the testimony of the builders that these steps take it too far and they will be the factor deciding whether or not to build homes. He is not in favor of this being a mandate.

MOTION: Rierson/McKinney to deny Ordinance No. 2010-3732 amending the residential design standards in the Development Code, read by title only.

Mayor Andrews agree he does not like mandates and the market should be allowed to determine what is built.

Mr. Mahr spoke of the decision being based on the findings and finding can be found in favor, but he is unsure if there are adequate findings to support a denial. Staff argued there were sufficient findings to support a denial.

VOTE: To deny Ordinance No. 2010-3732. (7 Yes/0 No) Motion carried.

Mayor Andrews recessed at 8:53 PM and reconvened at 8:59 PM.

3. Consider a motion adopting **Ordinance No. 2010-2731** amending the Development Code pertaining to electronic signs.

TIME – 8:59 PM

Mayor Andrews stated the record was opened and spoke of an email that had been distributed; he asked Council if they wanted to accept the email into the record.

MOTION: Shelton/Rierson to accept the email into the record. (7 Yes/0 No) Motion carried.

Mr. Brierley presented the staff report assisted by a PowerPoint visual and recommended adoption (see official meeting packet for full report).

Councilor Shelton asked if there had been any traffic studies conducted around the potential hazards of electronic signs. Staff replied there are studies but it is complicated because lots of things effect traffic safety and it is hard to definitively say such a sign would cause an accident; there are more concerns with texting or using cell phones. Officers polled could not see any connection between signs and driving, but a large screen television will be distracting.

Mayor Andrews recessed briefly to read material in record at 9:05 PM. He reconvened and opened the public testimony.

Mr. Scott Cassidy, Operating Manager for A Storage Place, spoke of education being an important component of signage and electronic signs help to educate the community and those moving through it. Their sign attracts customers from the surrounding community, with only 65% of customers being from Newberg address, others are from out of town. Their managers live onsite and often promote schools, charities, weather updates, and city events. When cities are restrictive, it makes it harder to use the sign as it is intended when purchased to better the business and keep the community educated. It is good to set boundaries to make sure Newberg does not look like Vegas, but there should be enough freedom to express their message.

Councilor McKinney spoke of the complimentary feedback received during the pilot project and the pages of comments received. He asked if their sign makes doing business easier in Newberg. Mr. Cassidy replied it absolutely does and spoke of the time and thought put into the messages displayed.

Mr. Dan Rouse, Walgreens, spoke of the code in place when deciding to purchase sign eight years ago and their participation in the pilot program. He spoke of the successes from last year selling products specifically advertised on their electronic sign and the need to update the sign regulations in Newberg so businesses can use these tools to the best of their ability.

Councilor McKinney added that they were able to document significant percentages of increases through the pilot program by keeping track of customer transactions. He asked if the proposed changes are perceived as more business friendly compared to the ten minute rule. Mr. Rouse agreed it was more business friendly than the ten minute rule.

Mr. Jim Talt agreed the Walgreens sign works well and so does the sign at A Storage Place, but he has great concerns for animated, video, and scrolling signs. He feels the purpose of animation is to get people's attention, which means attention is being diverted from driving and at 35 mph, a driver will travel 250 feet in five seconds, which is ample opportunity to get into an accident involving a bicycle or pedestrian. He felt extended video is just a limited commercial and that the ordinance was more lenient than Las Vegas, Nevada. He respects the work done but suggests revamping the size and message style to not exceed thirty square feet and to remain static or alternating, not animated or scrolling in style and to not permit them in residential zones except for schools and churches.

Mr. Robert Soppe spoke of his detailed testimony previously given both written and oral and hoped the Council would pay close attention to those points made. He was concerned that a giant TV could be permitted if the code allows for a 50 sq. ft. sign and that electronic score boards on a sports field are not limited and can be fully animated as long as they are facing the field. He felt this could be a huge loop hole and hoped the point would be carefully considered.

Mayor Andrews closed public testimony.

Councilor McKinney asked staff to address the scoreboard concern. Staff replied too much time was spent talking about scoreboards and a number of options and variations of limitations went behind the recommendation; the committee felt drafting language around all possible contingencies and worst case scenarios was not possible and they were not worried this would happen.

Councilor Shelton asked if there would be some type of approval process in place. Staff replied a building permit and sign permit would be required for any sign, a scoreboard is similar to a menu board for drive-in restaurants, if it cannot be read off site they can get building permit, but no sign permit is needed, so there are some safeguards.

Mayor Andrews discussed defining the time period for signs challenging the code to be replaced and what the standards were for ambient light with staff. Staff also described the different defined display methods referred to in the Electronic Message Center (EMC) standards and the chart used to review those various methods according to the size and zone, etc.

Councilor Rierson said he would not support the ordinance unless extended video messaging was excluded.

Councilor Bacon agreed this could be dangerous and only really appropriate in a mall parking lot, not where people were driving by.

MOTION: McKinney/Shelton to adopt **Ordinance No. 2010-2731** amending the Development Code pertaining to electronic signs, read by title only.

Councilor Howard agreed he may support this without extended video messages or animated messaging of video quality, text based animation would be fine.

MOTION: Witherspoon/Rierson to amend **Ordinance No. 2010-2731** disallowing extended video messages, keeping the definition and column in chart and adding “prohibited” in all zones. (7 Yes/0 No) Motion carried.

Councilor Rierson still was concerned about not wanting to see a 9.9 second video message that is just essentially a long animated message.

Councilor McKinney spoke of these items being discussed in depth for sake of community, not expressing personal likes and dislikes, but what is best for the merchants to drive their products. The purpose was to bring the ordinance into the 21st century.

Discussions followed about what signs would currently be non-compliant around town and concerns for flashing and rapid scrolling.

Councilor Howard still had concerns for animated messages and the definitions of rapid scrolling and extended video and brief discussion followed until the questions were called for.

VOTE: To adopt **Ordinance No. 2010-2731** amending the Development Code pertaining to electronic signs as amended and read by title only. (5 Yes/2 No [Howard, Rierson]) Motion carried.

VIII. COUNCIL BUSINESS

TIME – 10:26 PM

Mr. Danicic discussed establishing a patent for the City's process for drying sawdust for use in waste water treatment of bio-solids. The initial costs associated with hiring a patent lawyer are estimated at twenty-thousand, but he would keep the Council posted for anything over ten thousand. Possible revenues, the benefits of a patent, and consequences for not initiating a patent were also discussed.

MOTION: McKinney/Witherspoon to initiate funds necessary to see if the process is able to be patented. (6 Yes/1 No [Rierson]) Motion carried.

Councilor Witherspoon asked about other contributions to the Visitor Center and if they should attempt to ask other communities to contribute. It was discussed that Newberg reaps most of the benefit but the Chamber of Commerce could be asked to solicit other contributions from those who benefit from the Visitor Center.

Updates on the Animal Shelter project were also discussed.

IX. ADJOURNMENT

The meeting adjourned at 10:26 PM.

ADOPTED by the Newberg City Council this 15th day of November, 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 18th day of November, 2010.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: November 15, 2010

Order ____	Ordinance ____	Resolution ____	Motion ____	Information <u>XX</u>
No.	No.	No.		

SUBJECT: Discussion of rules for public spaces, including alcohol, smoking, and sales

Contact Person (Preparer) for this Motion: David Beam, AICP

Dept.: Planning and Building

File No.: Gen File 10-004
(if applicable)

EXECUTIVE SUMMARY:

On May 17, 2010, the City Council considered Ordinance No. 2010-2726, which proposed changes to the prohibition rules for Francis Square (please see Attachment 1). Council denied the proposed ordinance. In addition, Council directed city staff to review existing policies regarding the uses of public spaces and report back to them. The Council asked to have a discussion on the issue.

On August 31, 2010, city staff met to discuss rules for open spaces, specifically concerning three issues: the use of alcohol, smoking, and sales. Attending the meeting were the following staff members:

- Dan Danicic – City Manager
- Barton Brierley – Planning and Building Director
- Brian Casey – Police Chief
- Leah Griffith – Library Director
- David Beam – Economic Development Planner

The following presents the results of this meeting and further research. Note that the staff is not recommending any changes at this time, but the Council could initiate changes after this discussion.

What is a public space?

When one is speaking of public space, one should be clear on which type of public space they are addressing, as there are many types. For example, city public spaces include park open spaces (Francis Square, Memorial Park Gazebo, Carnegie Court); auto parking spaces (library lot, 2nd Street lot); public buildings; and public streets. CPRD and the Newberg School District also have similar open spaces, facilities and buildings that are all considered public spaces.

For reference to this discussion, the following background materials are included:

- Attachment 2 describes the use rules for the Memorial Park Gazebo and Francis Square.
- Attachment 3 describes the general rules for use of parks operated by CPRD.
- Attachment 4 is an application for a Peddler, Solicitor, or Street Vendor in Newberg as well as requirements of persons of such sales.
- Attachment 5 lists the laws regarding conduct in public spaces from the Newberg Municipal Code.
- Attachment 6 describes the types of Special Event Licenses that can be applied for as well as the factors the OLCC uses to assess applications for such licenses. When any business with a liquor

license wishes to sell and serve alcohol at a special event. They need to obtain a Special Event License from the Oregon Liquor Control Commission (OLCC).

- Attachment 7 is a section of a report by the Multnomah County Health Department Tobacco Prevention Program that lists some reasons to support smoke free outdoor areas as well as cities in Oregon that have already designated such areas in their park systems.
- Attachment 8 describes Oregon's Smokefree Workplace law.
- Attachment 9 is a matrix comparing regulations in various cities within Oregon regarding smoking, alcohol consumption, and sales.

Alcohol

Current Policy - The City currently does not allow intoxicants at Memorial Park Gazebo and Francis Square. Consumption of alcohol liquors are prohibited in public spaces in Newberg (NMC Section 136.17), except by special permit and an OLLC license. However, alcohol may be served during special events at the Newberg Library with approval from the City Manager. CPRD also prohibits the use of alcohol in its parks.

Problems/Issues - Chief Casey has noted that the police have had very few issues with wine tasting events. The NDRC has requested permission to do wine tasting and sales in Francis Square during First Friday.

Possible Changes - A simple, consistent policy could be crafted to say that any alcohol consumption at any city public space has to be approved in advance by the city manager or designee. Any application for such request would need to include an approved Special Event License by the OLCC appropriate for the type of alcohol being served.

Smoking

Current Policy – Regulations of CPRD and the City do not prohibit smoking in their public spaces. However, State law prohibits smoking within 10 feet of entrances, exits, windows that open, and ventilation intakes of workplaces and public places (see Attachment 8 for more details).

Problems/Issues - Russ Thomas, Public Works Maintenance Supervisor, reports that they are not having any significant problems with smoking at Francis Square, such as too many butts or complaints.

Possible Changes – Craft a policy that prohibits smoking in public park open spaces. Other cities in Oregon have done this (see Attachment 7).

Sales and distribution of literature

Current Policy - Sales are allowed on public properties if the vendor is registered with the City (please see attachment 4) and does not stay more than 15 minutes at any one location. Sales are prohibited in Francis Square.

Problems/Issues – Since there is no restriction on what can be sold, potential problems could arise with sales on public property. The NDRC has wanted to sell in Francis Square during First Friday. Some groups have wanted to distribute literature in the Square.

Possible changes – Restrict types of sales allowed. A simple, consistent policy may be crafted to say that any sales or distribution of literature in any city public space has to be approved by the city manager. Approval guidelines could also be developed.

Other issues

The Council could discuss other issues, such as behavior in public spaces, noise and sound permits, and assemblies.

It should be noted that intoxicants, smoking materials, and sale items cover a variety of categories. Any new policy should be clear about which specific categories are being regulated.

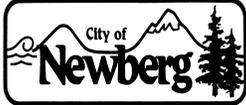
Also, it should be noted that during the staff meeting on August 31, a question arose regarding the effect of charging a fee for some types of city permit may have on the City's liability and insurance. The City's Legal Department is looking into this issue.

Finally, Attachment 5 shows that other problems can arise in the use of public places. The Council may wish to review the current regulations regarding public spaces and make revisions as appropriate.

FISCAL IMPACT: None at this point.

STRATEGIC ASSESSMENT: The wine/tourism industry is a key industry in Newberg and the region, which in general, the City should support. The effects of any proposed new regulations on this industry should be considered. As to all the issues regarding smoking, sales, and use of intoxicants, concerns with public safety should be balanced with need of city public spaces to be used in a manner that is productive and/or the enjoyment of Newberg's citizens.

Ordinance DENIED on May 17, 2010.



ORDINANCE No. 2010-2726

AN ORDINANCE ADOPTING REVISED PROHIBITION RULES FOR FRANCIS SQUARE

RECITALS:

- 1. In 1999, the City of Newberg created Francis Square park, which is located on the northwest corner of the intersection on College Street and First Street. The Square replaced the former Francis Theater, which was destroyed during an earthquake in 1993.
- 2. In July 1999, an Ad Hoc Working Group was created to create a set of prohibition rules regarding the use of the Square. At the August 2, 1999, the proposed set of rules was presented to the City Council for their consideration. The City Council accepted the proposed rules, with minor changes.
- 3. The Newberg City Council recognizes that the prohibition rules of the Square should be reviewed from time to time and modified as necessary to ensure that the public receives maximum benefit of the Square.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

- 1. Rules for use of Francis Square shall be included in the Newberg Municipal Codes under *Title 13- Miscellaneous Offenses* and shall be placed under a new *Section 130.42* with the title of *Francis Square Prohibition Rules*. The language of the new section shall be as follows:

SECTION 130.42 FRANCIS SQUARE PROHIBITION RULES

The following actions are prohibited within Francis Square, located at the NW corner of College and First Street:

- (A) **Bicycle riding, roller-blading, skating and skateboarding.**
- (B) **Littering, graffiti, or defacement of structures.**
- (C) **Unleashed or un-contained animals.**
- (D) **Possession or use of intoxicants, except that alcoholic beverages may be poured for tastings on the premises during First Friday Art Walk or other events approved by the City Manager, contingent upon obtaining all necessary permits, including an OLCC permit.**
- (E) **Smoking.**
- (F) **Sound amplification devices or loud noise between the hours of 10:00 p.m. and 7:00 a.m. and only by permit from the city at all other times.**

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: June 16, 2010.

ADOPTED by the City Council of the City of Newberg, Oregon, this 17th day of May, 2010, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

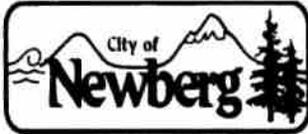
Daniel Danicic, City Recorder

ATTEST by the Mayor this 20th day of May, 2010.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through Newberg Downtown Revitalization Committee at March 17, 2010 meeting.



**FRANCIS SQUARE
AND MEMORIAL PARK GAZEBO
RESERVATION PERMIT**

Newberg Public Works Department
414 E. First Street, P.O. Box 970
Site Address: 500 W. Third Street
Newberg, Oregon 97132
Phone: (503) 537-1234 Fax: (503) 554-9411

Permit Fee: \$5.00
Security Deposit: \$70.00

Check or money order only, made to City of Newberg
Allow a minimum of 10 working days to process refund

Pursuant to City Resolution 2008-2761, a permit, fee and security deposit is required of any person or organization using either Francis Square or Memorial Park Gazebo which are owned and maintained by the City of Newberg. Please allow ten working days to process the application. Incomplete or missing information may delay the approval process. **A copy of this completed permit must be available on site at all times during the permitted event.**

EVENT LOCATION: **Memorial Park Gazebo** **Francis Square**

DATE OF EVENT: _____ **TIME:** _____ to _____

APPLICANT: _____

Driver License # _____ Business License # (if applicable) _____

Address (street, city, zip code): _____

Telephone: Home _____ Cell/Business _____

TYPE OR NATURE OF EVENT: _____

Commercial activities must meet the requirements of City Code Chapter 113 and must be approved by the City Manager.

Event will have broadcast or amplified sound

Requires a City Sound Permit issued by Newberg/Dundee Police Department. (Application for sound permit **must be submitted 30 days prior to event date**). A copy of the sound permit is to be attached and made a part of this permit application.

RULES OF USE FOR THESE FACILITIES: To ensure public safety and to preserve City facilities, the following actions are prohibited:

- Bicycle riding, roller-blading, skating, or skateboarding
- Littering, graffiti, or defacement of facility
- Sale or distribution of products or literature at any time
- Unleashed or un-contained animals
- Possession or use of intoxicants
- Sound amplifying devices or loud noise between the hours of 10:00 p.m. and 7:00 a.m. and only by permit from the City at all other times

LIABILITIES: The applicant assumes **full responsibility for any and all damage** to the facility caused by the abuse, vandalism, neglect, or misuse of the facility. The applicant is responsible to remove all debris from the facility after use. Any costs associated with damage or other required cleaning will be deducted from the initial security deposit. Any additional costs in excess of the deposit amount will be billed to the applicant and may result in the denial of future use of the facility.

NOISE: Pursuant to Title IX General Regulations, Chapter 95.39 *Unnecessary Noise; Permitted Exceptions* of the Newberg City Code, a permit is required of any person or organization for the broadcast or amplification of programs of music, news, speeches, or general entertainment as part of a national, state or city event, public festivals, or outstanding events of a noncommercial nature. No event may disrupt emergency service communications.

The statements and information provided above are in all respects true, complete and correct to the best of my knowledge. By signing below, I agree to follow all City Codes and State and Federal laws while occupying the facility.

Applicant Signature _____ Date: _____
Please Print: _____

FOR CITY OF NEWBERG USE ONLY

Approved

Denied

Approved By: _____ Date: _____

City Manager Signature: _____ Date: _____
(for commercial uses only)

Route copy of Permit to:

Police Public Works City Manager Other _____

Sound permit Attached: Yes N/A

Special Conditions/Comments:

Application approved by Resolution No. 08-2761 on 4/7/08. Any changes to the permit fee, security deposit, or the application process must be submitted for City Council review thirty days prior to implementation.

**Chehalem Park and Recreation District
Posted Park Rules and Regulations**

GENERAL USE OF PARK AND RECREATION AREAS

1. A person or persons shall not use abusive, threatening, boisterous, vile, obscene or indecent language or gestures.
2. Plants, wildlife and facilities are to be protected, and no person shall deface, destroy or damage any District Park and Recreation Area.
3. Motorized vehicles are restricted to the designated roadways and parking areas.
4. All litter must be placed in receptacles provided.
5. Drinking of alcoholic beverages or using drugs prohibited in park
6. Park and recreation areas are closed from 10:00p.m. – 7 a.m. except with written authorization of the District Superintendent
7. Person under the influence of either alcohol or drugs are prohibited from park.

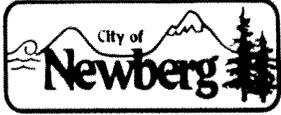
ANIMALS

1. No horses shall be allowed in park.
2. Dogs shall be on a leash.

ENFORCEMENT OF RULES AND REGULATIONS

1. The Superintendent, any employee of the Chehalem Park and Recreation District and City, County, or State peace officers are vested with authority to enforce these rules and regulations.
2. A person shall not interfere with any authorized person in enforcing these rules and regulations.
3. A person shall leave any District Park or Recreation Area after being directed to leave by any employee of the Chehalem Park and Recreation District, or any peace officer.
4. Violation of the rules and regulations is a misdemeanor punishable upon conviction by a fine not to exceed \$100.00 or imprisonment not to exceed five days, or both.

ORS 266.450



PEDDLER/SOLICITOR & STREET VENDOR REGISTRATION

Planning/Building Department

PO Box 970, 414 E. First St., Newberg, OR 97132
Phone: (503)537-1240 Fax: (503)537-1272

FOR OFFICE USE ONLY (initials is applicable)
Verify that vendor or parent company has a valid City of Newberg Business License application; _____
OR they can file one for fee of \$25/six months _____
Peddler/Solicitor or Street Vendor Registration = no additional fees
After stamping & initialing, provide customer with copy of front/back of form. Copy to P.D. This document is to be retained for 3 years past expiration.

Peddler/Solicitor

Street Vendor

PLEASE PRINT CLEARLY AND LEGIBLY

APPLICANT: _____ DATE: _____

HOME ADDRESS (street, city, state, zip code): _____

HOME/CELL PHONE: _____ BUSINESS PHONE: _____ DATE OF BIRTH: _____

DRIVER'S LICENSE STATE/NUMBER: _____ ALTERNATIVE ID: _____

BUSINESS NAME: _____

BUSINESS ADDRESS (street, city, state, zip code): _____

NAME AND CONTACT PHONE NO. OF LOCAL AGENT: _____

NATURE OF BUSINESS/PRODUCT/MERCHANDISE: _____

DAYS AND HOURS OF OPERATION (refer to the standards on the back): _____

Is A State or County Permit/License Required To Operate or Conduct Your Proposed Business/Activity? If So, Please Attach A Copy Of Each Permit That Has Been Issued To You.

NO YES, SEE ATTACHED

Do You Have A Previous Sales History In The Community Within The Ten (10) Year Period Prior To The Date Of Registration?

NO YES, SPECIFY BELOW

<u>Nature of Permit</u>	<u>Product Name</u>	<u>Business/Organization</u>	<u>Date/Year of Permit</u>
_____	_____	_____	_____

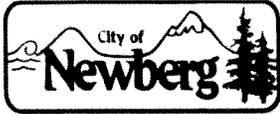
I Have No Previous Criminal History, Including Conviction Or Incarceration For A Crime Such As Theft, Burglary, Robbery, Fraud, Deceit Or Any Other Crime Of Violence Within The Ten (10) Year Period Prior To The Date Of Registration. I Declare, Under The Penalties Of Perjury, That The Information Contained In This Application Is To The Best Of My Knowledge, True And Correct. In Addition, I Understand And Will Adhere To City of Newberg Code Chapter 113 As Summarized On The Reverse Side Of The Registration Form. I Hereby Agree To Indemnify, Hold Harmless And Defend The City Of Newberg And Its Employees, Officials And Agents From Any And All Liability Or Claims Of Liability Arising From Any Operations, Activities Or Status Of Applicant Performed Or Existing Pursuant To The Registration Authorized Under This Application.

Signature of Applicant

Date

FOR OFFICIAL USE ONLY
Registration effective for six months from:

Applicant must carry this while selling in Newberg.



PEDDLER/SOLICITOR & STREET VENDOR REGISTRATION

City of Newberg Code Chapter 113

Definitions

- **Peddler:** A person or persons traveling place to place selling and delivering at the same time.
- **Solicitor:** A person, or persons traveling from place to place, not carrying goods, but taking orders for future delivery, or soliciting for money or other things of value.
- **Street Vendor:** A person or persons traveling on public streets, public sidewalks, public property or private streets and carrying conveying or transporting such items as food, beverages, flowers, and balloons, offering and exposing the same for sale by hand or from a mobile type device such as a pushcart.
- **Person or Persons:** Any natural person and any firm, proprietorship, partnership or corporation.

Registration

All peddlers/solicitors and street vendors shall register individually with the City of Newberg prior to engaging in any activities defined above. The registration shall be filed with the City of Newberg on a form supplied by the City. Registrations will be accepted only during normal City business hours. Failure to provide complete and accurate information may result in violation of this Section and immediate revocation and/or denial of registration. Registrants must provide the following information:

- Personal identification including date of birth, driver's license number, and/or other appropriate identification;
- Copies of any state or county licenses which are required to operate or conduct activities proposed by the registrant;
- A statement, which confirms the registrant has no previous criminal history, including conviction or incarceration for crime such as theft, burglary, robbery, fraud, deceit, or any other crime of violence within the ten (10) year period prior to the date of registration.
- Previous sales history in the community within the ten (10) year period prior to the date of registration; and
- A description of the goods or services offered for sale.

Term of Registration

All peddler/ solicitor or street vendor registrations are valid for a period of six (6) months; after six (6) months, reregistration is required before further business can be conducted.

Exemption

The following **peddlers/solicitors (only)** are exempt from this section:

- A peddler or solicitor who has been specifically invited to a customer's residence or business location; and
- A non-profit organization as organized under the Internal Revenue Service Code.

Appeal

Any peddler/solicitor (only) registrant who does not meet the eligibility requirements may appeal to the City Manager. The City Manager may accept or reject the appeal, waive any requirements imposed, or refer the matter to the City Council. The applicant may further appeal the decision of the City Manager to the City Council, together with a non-refundable processing fee as established by City Council resolution.

Violation

Any peddler/solicitor or street vendor who engages in activities within the corporate City limits without having first registered as herein provided for, or who has failed to comply with any condition, standard, or requirement of this Section or any City, County, or State regulation relating to the registered activity, or provides false information, shall have committed a City Class 2 infraction. City Class 2 infractions shall be processed in accordance with the procedure set forth in Newberg Section 2163. Every day of a continuing violation shall be deemed a separate offense for the purposes of these penalties.

Limitations

All Street vendor (only) sales operations shall be:

- Limited to the period from one-half hour before dawn to one-half hour after dusk;
- Limited to not stopping adjacent to any lot in excess of fifteen (15) minutes in any one hour period, except as follows:
 - In C-3 Zones, pushcarts may be located at specific locations on the public rights-of-way or sidewalk subject to approval by the City Manager.

Standards

All peddlers/solicitors (only) shall:

- Limit their hours of operation to only those hours between 9 am and 9 pm;
- Not enter uninvited into a private building, structure or room;
- No enter uninvited upon private property that is posted "no soliciting" or with a similar sign;
- Within 30 seconds after beginning the conversation with a potential customer:
- Provide identification of both the person and whom the person represents;
- Explain the purpose of the person's call;
- Provide a description in commonly understood terms of the goods or services offered for sale,
- Inquire whether the person being solicited is interested in listening to a sales presentation and immediately discontinue the solicitation if the person being solicited gives a negative response.
- During the course of the solicitations, state and total cost of the goods or services offered for sale and the number, timing and a mount of installment payments if payment on an installment basis is available to the person being solicited.

Newberg Code – Laws regarding conduct in public places

June 4, 2007

OFFENSES AGAINST PUBLIC PEACE**130.16 PUBLIC INTOXICATION.**

No person shall create, while in a state of intoxication, any disturbance of the public in any public or private business or place.

(Ord. 1703, passed 8-20-73) Penalty, see § 130.99

Editor's note:

For fine amount, see § 37.66, Schedule of Forfeitures.

130.17 DISORDERLY CONDUCT AT FIRES.

(A) It shall be unlawful for any person at or near a fire to obstruct or impede the fighting of the fire, interfere with fire department personnel or Fire Department apparatus, to behave in a disorderly manner, or refuse to observe promptly an order of a member of the Fire or Police Department.

(B) For purposes of this section, members of the Fire Department are endowed with the same powers of arrest as are conferred upon peace officers for violations of city ordinances.

(Ord. 1703, passed 8-20-73) Penalty, see § 130.99

130.18 ABUSE OF VENERATED OBJECTS.

(A) No person shall intentionally abuse a public monument or structure, a place of worship or burial, or the national or state flag.

(B) As used in this section, ABUSE means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

(Ord. 1703, passed 8-20-73) Penalty, see § 130.99

130.19 URINATION OR DEFECATION IN PUBLIC PLACES.

No person shall, while in or in view of a public place or the public, perform an act of urination or defecation except in toilets provided for that purpose.

(Ord. 94-2388, passed 10-3-94) Penalty, see § 130.99

134.07 OBSTRUCTION OF BUILDING ENTRANCES.

No person shall obstruct the entrance to a building.

(Ord. 1703, passed 8-20-73) Penalty, see § 134.99

134.08 OBSTRUCTION OF SIDEWALKS.

No owner or person in charge of property shall permit a cellar door or grate located in or upon a sidewalk or public pathway to remain open except when such entrance is being used and, when being used, there are adequate safeguards for pedestrians using the sidewalk.

(Ord. 1703, passed 8-20-73) Penalty, see § 134.99

134.09 EXPECTORATION.

No person shall spit or expectorate upon a sidewalk or building or in a public place except in receptacles provided for that purpose, or defile in any manner a drinking fountain used by the public.

(Ord. 1703, passed 8-20-73) Penalty, see § 134.99

134.42 LITTERING PROHIBITED.

No person shall throw, deposit or accumulate litter in or upon any public place or private premises as hereinbefore defined within the city, except for collection, or at a city dump, or except while such person is temporarily engaged in clearing said public place or private premises of litter or improving said

public place or private premises. No person shall deposit or cause to be deposited in any city-owned receptacle located in a public place, the garbage or litter which was accumulated in the residence or place of business occupied by said person.

(Ord. 1673, passed 9-5-72) Penalty, see § 134.99

134.43 PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING.

Persons placing litter in authorized public or private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any public place or private premises.

(Ord. 1673, passed 9-5-72) Penalty, see § 134.99

134.45 LITTER THROWN BY PERSONS IN VEHICLES.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property.

(Ord. 1673, passed 9-5-72) Penalty, see § 134.99

134.46 THROWING OR DISTRIBUTING COMMERCIAL HANDBILLS IN PUBLIC PLACES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city; nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

(Ord. 1673, passed 9-5-72) Penalty, see § 134.99

134.47 PLACING COMMERCIAL AND NONCOMMERCIAL HANDBILLS ON VEHICLES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(Ord. 1673, passed 9-5-72) Penalty, see § 134.99

134.48 DEPOSITING COMMERCIAL AND NONCOMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(Ord. 1673, passed 9-5-72) Penalty, see § 134.99

134.49 PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERLY POSTED.

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertisements," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

(Ord. 1673, passed 9-5-72) Penalty, see § 134.99

136.16 CONSUMPTION OF ALCOHOLIC LIQUORS IN PUBLIC PLACES PROHIBITED.

No person shall drink or consume any alcoholic liquor in or upon any street, alley, public grounds or other public place unless such place has been licensed for that purpose by the Commission.

(Ord. 1455, passed 1-3-67)

OREGON LIQUOR CONTROL COMMISSION

Special Event Licenses

Factors Used to Assess Special Applications

A special event license allows a business that holds an annual liquor license, an individual, or a group, to sell and serve alcohol at a special event.

TYPES OF SPECIAL EVENT LICENSES

Temporary Sales License (TSL)

This license allows the sale of distilled spirits, malt beverages, wine, and cider for drinking within a licensed area.

Temporary Use of an Annual License

This license allows a Full On-Premises Sales licensee to sell wine, cider, malt beverages, and distilled spirits for consumption at the special event licensed business; or allows a Limited On-Premises Sales licensee to sell wine, cider and malt beverages for consumption at the special event licensed business.

Special Event Winery (SEW) and Special Event Grower (SEG)

This license allows a Winery licensee to sell wine, cider, and malt beverages for consumption at the special event licensed business, or in sealed containers for taking off the special event licensed premises. A Grower Sales Privilege licensee is allowed to sell wine and cider for drinking on the special event licensed premise or in sealed containers for taking off the premises.

Special Event Brewery-Public House (SEBPH)

This license allows an Oregon Brewery-Public House Licensee to sell wine, cider and malt beverages for drinking on the special event licensed premises or in sealed containers for taking off of the special event licensed premises.

Special Event Distillery

This license allows an Oregon Distillery Licensee to provide tastings of distilled liquor at a special event licensed business.

FACTORS USED TO ASSESS SPECIAL EVENT LICENSE APPLICATIONS

OLCC staff review special event license applications to: assess the risk for public safety issues; prevent minors' access to alcohol or areas prohibited to minors; evaluate control measures that will prevent problems/violations; and control alcohol consumption by adults.

- **Minors**

Will minors be prohibited from the area with alcohol? If yes, how will the boundaries of the area be identified?

- A room within a building that has permanent walls with a door.
- An outdoor area usually requires a barrier that is of sufficient height, sturdiness, and is not movable. The barrier should allow people to enter and exit only through specific points, and prevent

(continued on back)



The mission of the OLCC is to promote the public interest through the responsible sale and service of alcoholic beverages.



**For more information
on obtaining a
Special Event License,
contact your local OLCC office.**

OLCC Main Office
9079 SE McLoughlin Blvd.
Portland, OR 97222
Phone: 503-872-5000
Fax: 503-872-5180

Toll free: 800-452-OLCC

www.oregon.gov/OLCC

(03/2010)

alcohol from leaving the area. Two examples of a barrier are a fence and a “moat” system. Such a barrier can be portable (set-up and take-down) but it should not be easily moveable after it is set-up. If the barrier is unable to prevent minors from gaining access to the area or to prevent alcohol from leaving the area, changes to the barrier may be required (such as increasing the height of the fence or the width of the moat).

Will minors and alcohol be allowed together in the same area at the same time? If yes, what are measures the applicant proposes to help prevent minors from obtaining alcohol? Common examples:

- Limit the number of alcoholic drinks one person can have at one time
- Limit the amount of alcohol in one drink
- Have a sufficient level of lighting at all times to monitor patrons
- Have a sufficient number of people at all times to monitor patrons
- Containers used to serve alcoholic beverages are noticeably different from containers used to serve non-alcoholic beverages

• **Primary Activity**

What will be the primary activity in the licensed area? An event that focuses on something other than alcohol consumption is less likely to be at risk for public safety problems. Examples of these types of events include:

- Food service
- Art shows
- Performing arts
- Some sporting events

• **Lighting**

What will the level of lighting be in the licensed area (the area where alcohol will be sold or consumed)? This factor is important even when minors are not present as it allows the applicant’s representatives, OLCC staff, and police officers to monitor the event for compliance with laws and control measures. The most common example is:

- The level of lighting will be sufficient to read common newspaper print.

• **Size and Expected Attendance**

What is the size of the licensed area and what is the projected number of expected attendees per day in the licensed area?

- A large event with a large number of attendees typically will have an increased risk of public safety problems such as minors obtaining alcohol, over-service of alcohol to patrons, and fights.

• **History of Prior Problems**

Does the event or the applicant have a history of prior problems?

- OLCC staff are likely to require a more detailed control plan with an event or from an applicant with a history of having problems.

• **Hours of Service**

What are the hours of alcohol service?

- Typically, events that go past 10PM usually focus on alcohol consumption after that time. Events that focus on alcohol consumption are unsuitable for minors at any time; any time an event goes past 10PM it is especially important to determine the focus of the event.

Oregon Cities that have smoke-free parks and public outdoor spaces

Bandon, Ashland, Corvallis, Hillsboro, Newport, Sherwood, Independence and all of Wasco County have smoke-free park systems. Other Oregon cities with smoke-free zones in parks include Bend, Prineville, Pendleton and Portland (Pioneer Courthouse Square).

The Case for Smokefree Outdoor Areas

Smokefree outdoor policies protect people from secondhand smoke, encourage tobacco users to quit, and reinforce healthy lifestyles for kids.

Public Opinion

86% of Oregonians say that people should be protected from secondhand smoke.

89% of Oregonians say that secondhand smoke is harmful.

Parks & Outdoor Events

Smokefree policies benefit everybody by creating a clean, healthy environment.

Smokefree policies reduce litter. Cigarette butts are the most common source of litter, take decades to decompose, release toxins into the water supply, and are commonly ingested by young children.

Smoking materials are a major cause of fires. Smokefree policies reduce fire hazards.

Jogging trails, sporting fields, playgrounds, concert/theater venues, community fairs, picnic grounds and other community gathering places would all benefit from smokefree policies.

Secondhand smoke is a first-rate killer.

800 Oregonians die annually due to secondhand smoke.

"The debate is over. The science is clear: secondhand smoke is not a mere annoyance, but a serious health hazard," declared U.S. Surgeon General Richard Carmona in 2006.

Secondhand smoke exposure causes heart disease, breast cancer, and lung cancer in adults and sudden infant death syndrome, asthma, and other respiratory problems in children.

There is NO risk-free level of secondhand smoke exposure, with even brief exposure adversely affecting the cardiovascular and respiratory systems.

There are over 4000 chemicals in secondhand smoke, and over 50 of them cause cancer.

These chemicals include benzene, arsenic, formaldehyde, and carbon monoxide.

*Taken from a report by the Multnomah County Health Department
Tobacco Prevention Program
503-988-4163*

The Smokefree Workplace Law

In June 2007, the Oregon legislature passed a law making the Oregon Smokefree Workplace Law even stronger. The law expands the number of indoor workplaces that are required to be smokefree.

The law also prohibits smoking within 10 feet of entrances, exits, windows that open, and ventilation intakes of workplaces or public places.

The new restrictions went into effect as of January 1, 2009

[What Workplaces are Affected Under the Law?](#)

[Complying with the Law](#)

[Exceptions to the Law](#)

[Enforcement and Penalties for the Law](#)

[Reporting Violations of the Law](#)

[Statute and Administrative Rules for the Law](#)

[Get Posters and Signs](#)

What Workplaces are Affected Under the Law?

Under Oregon's Smokefree Workplace Law, smoking is prohibited in most public places and workplaces with few [exceptions](#). *Public place* means any enclosed area open to the public. *Place of employment* means every enclosed area under the control of a public or private employer that employees frequent during the course of employment.

Workplaces and public places that must be smokefree include but are not limited to:

- Bars and taverns, including bar areas of restaurants
- Bowling centers
- Bingo halls
- Private and fraternal organizations
- Employee break rooms
- Restaurants
- Private offices and commercial office buildings
- Retail and wholesale establishments
- Manufacturing plants and mills
- Truck stops
- Child and adult day-care
- Assisted living facilities
- Movies theaters and indoor entertainment venues
- Hotels and motels (Exception: up to 25% of guest rooms may be designated as smoking rooms by the owner or entity in charge)
- Work vehicles that are not operated exclusively by one employee

Note: Some cities and counties in Oregon passed Smokefree Workplace Laws prior to the state law. In [these jurisdictions](#), any standard or requirement stricter than the state law will apply. If you are an employer, employee or member of any of these communities, please contact your local county tobacco prevention coordinator for information on applicable workplace rules and regulations.

 [Back to the top](#)

Complying With the Law

Complying with the law is easy:

- Make sure all employees are informed of the law.

- Prohibit smoking in the workplace and within 10 feet of all entrances, exits, windows and air intake vents.
- Post "No Smoking within 10 feet" signs at all building entrances and exits as required by law ([order signs](#)).
- Remove all ashtrays and other receptacles for smoking debris from your workplace and from within 10 feet of entrances, exits, windows, and ventilation intakes as required by law.
- Read more about the [Outdoor Smoking Areas and Compliance with Oregon's Indoor Clean Air Act \(pdf\)](#).
- Talk with your customers and employees about the law.
- Provide training to employees about how to ask visitors and patrons not to smoke.
- Encourage employees who smoke to quit smoking. Encourage them to call Oregon's toll-free QUIT LINE at 800-QUIT-NOW (800-784-8669) or, for Spanish, to call 877-2NO-FUME (877-266-3863).

As an employer, it is be your responsibility to ensure that your workplace is smokefree.

*(See [What Workplaces are Affected Under the Law](#))



Back to the top

Exceptions to the Law

Exceptions to the law will include:

- **Smoking in certified smoke shops.** Smoke shops must be certified by the Department of Human Services and abide by specific guidelines. Applications are accepted by mail only. Get [application for smoke shop certification](#).
- If you plan to move your business to a new location after becoming certified, you must notify the department at least 30 days prior to moving to seek certification for the new location.

To qualify as a smoke shop, a business must:

- Apply to the Department of Human Services and receive certification before allowing smoking on the premises
- Acquire at least 75 percent of its gross revenue from tobacco sales every fiscal year
- Prohibit persons under 18 years of age from entering the premises and post notice of the prohibition at each entrance and exit
- Post signage at each entrance and exit stating that smoking is allowed on all or some of the premises
- Not offer video lottery games, social gaming or betting on the premises
- Not sell or offer on-premises consumption of alcoholic beverages
- Be a stand-alone business with no other businesses or residential property attached to the premises

- **Smoking of cigars in certified cigar bars.** Cigar shops must be certified by the Department of Human Services and abide by specific guidelines. Get [application for cigar bar certification](#).

To qualify as a cigar bar, a business must:

- Apply to the Department of Human Services and receive certification before allowing cigar smoking on the premises
- Have on-site sales of cigars
- Have generated on-site retail sales of cigars of at least \$5,000 for the calendar year ending December 31, 2006
- Operate under a full on-premises liquor sales license issued by the Oregon Liquor Control Commission
- Have a humidor on premises
- Prohibit the smoking of all tobacco products other than cigars
- Prohibit persons under 21 years of age from entering the premises and post notice of the prohibition at each entrance and exit
- Post signage at each entrance and exit stating that smoking is allowed on all or some of the premises
- Not offer video lottery games
- Have a maximum seating capacity of 40 people
- Have a ventilation system certified by the Assistant to the State Fire Marshal for the jurisdiction in which the cigar bar is located as adequate to remove the cigar smoke in the cigar bar and vent the smoke from the cigar bar in a manner that prevents the smoke from entering any other establishment

- Require all employees to read and sign a form published by the Public Health Division which explains the dangers of exposure to secondhand smoke (available in November)
- **Smoking in hotel or motel rooms that specifically allow for smoking.** The owner or entity in charge of a hotel or motel may designate up to 25% of sleeping rooms as rooms in which smoking is permitted.
 - If the owner or entity in charge of a hotel or motel chooses to designate up to 25 percent of sleeping rooms as smoking permitted, all smoking rooms on the same floor must be contiguous and the status of the rooms may not be changed, except to add more nonsmoking rooms.
 - The owner or entity in charge of a hotel or motel must notify clients upon check-in as to the smoking status of the rooms.
 - All hotel and motel sleeping rooms must be clearly marked either smoking or non-smoking on the exterior door of the sleeping room.
- **Smoking of non-commercial tobacco for American Indian ceremonial purposes.**

 [Back to the top](#)

Enforcement and Penalties for the Law

Employees and the public may report violations of the law by completing an [online complaint form](#) or if unable to access the online form, by calling 1-866-621-6107.

Complaints will be investigated and violations pursued.

If your business is not in compliance with the law by January 1, 2009, you could incur the following fines:

- \$500 per day
- Maximum \$2000 in a 30-day period
- Multiple violations will result in further administrative action.

 [Back to the top](#)

Reporting Violations of the Law

Employees and the public may report violations of the law by completing an [online complaint form](#) or if unable to access the online form, by calling 1-866-621-6107. Complaints will be investigated and violations pursued.

 [Back to the top](#)

Statute and Administrative Rules for the Law

- [Oregon Revised Statute](#) [433.835 - 433.990]
- [Oregon Administrative Rules](#) [333-015-0025 - 333-015-0090]

 [Back to the top](#)

Get Posters and Signs for the Law

To order materials including brochures, flyers, and door stickers for the revised Indoor Clean Air Act, please go to the on-line [OTEC Catalog](#).

 [Back to the top](#)

Comparison of City Public Square Regulations

Oct-10

	Canby	Forest Grove	Newberg	Sandy	Sherwood	Silverton	Woodburn
Are you allowed to consume alcohol in a public square in general?	No	No	No	Yes, beer and wine, and others in posted areas	Yes, but not be intoxicated	No	No
Can you obtain a permit to sell or consume alcohol in a public square?	No	Yes, OLCC license needed	Not in Francis Square or CPRD parks; in other spaces potentially by permit and with OLCC license	Yes with City Council approval	Yes, beer only, with City Council, park commission, and OLCC approval	No	Yes, OLCC license needed
Are there any prohibitions against smoking in a public place beyond state laws?	No	No	No	Not at transit stops	No	No	No
Are you allowed to sell items in a public square?	Not clear	Not clear	Not in Francis Square; in other spaces by permit	Yes, with City Council approval	Yes, with City Manager or Council permit	Yes, with City permit	Yes, with Park Director permit