

ORDINANCE NO. 600

AN ORDINANCE PROHIBITING THE PLANTING, GROWING, OR MAINTAINING OF TREES, SHRUBS, OR VEGETABLE GROWTH UPON OR OVERHANGING THE SIDEWALKS OR SIDEWALK AREAS IN THE CITY OF PRINEVILLE WITHOUT FIRST OBTAINING A PERMIT SO TO DO, PROVIDING FOR THE ISSUANCE OF A PERMIT BY THE CITY STREET SUPERINTENDENT, PROVIDING PENALTIES FOR VIOLATION, AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF PRINEVILLE DO ORDAIN AS FOLLOWS:

Section 1. That no person, firm or corporation shall plant, grow or maintain any tree, shrub, or vegetable growth upon the sidewalks or sidewalk areas in the city of Prineville, or so close thereto that they overhang said sidewalks or sidewalk areas at an elevation of less than nine feet, without first obtaining a permit so to do from the City Street Superintendent of the city of Prineville as hereinafter provided.

Section 2. That upon proper application filed by applicant setting forth all relevant facts relating to the request in question, the City Street Superintendent, in the exercise of his sound discretion, issue a permit or permits to persons, firms, or corporations to plant, grow and maintain trees, shrubs, or vegetable growth in areas in which the same are prohibited by Section 1 hereof.

The City Street Superintendent 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 tree, shrub, or vegetable growth.
- C. Location of parking meters, light standards, crosswalks, building, entrance 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 Street Superintendent shall designate in the permit or in an exhibit attached thereto the areas in which planting shall be allowed, the type of plantings 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 planting, growing, or maintaining trees, shrubs, or vegetable matter 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 Street Superintendent.
- 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 or time, or any act or thing shall act as an estoppel against the City of Prineville or be held to give permittee or the owner of any property any vested right.
- D. The installation and care of such plantings 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 plantings and the structure served thereby shall be maintained in a good state of repair and maintenance at the sole cost and expense of the permittee.
- E. At the expiration or termination of the permit the permittee shall forthwith remove any and all plantings and vegetable matter from the area at its own sole cost and expense and place the sidewalk in said area in a good condition of repair.
- F. That the permittee shall indemnify and save the city of Prineville, its officers, agents, officials and employes, harmless from any claim or award

for damages or injuries to property or persons, including costs and attorney fees, allegedly arising in whole or in part out of the use, occupation, or disruption of sidewalks or sidewalk areas by said permittee or those acting on his behalf or with his approval or ratification or allegedly arising in whole or in part out of the failure by the permittee to abide by the terms of this ordinance and said permit.

G. That the permittee shall remove, replace, or relocate individual plantings or vegetable growth as the public convenience or necessity warrants and at the request of the City Street Superintendent.

H. No permit issued hereunder shall become effective until the permittee shall have filed with the City Recorder proof of the existence of a prepaid liability insurance policy naming the city of Prineville, its officers, agents, officials and employes as named insureds; said policy shall have limits of \$50,000. 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 plantings which are for sale in or on the sidewalks or sidewalk areas, nor shall any advertising be placed on any plantings or on any container in which plantings may be set; the purpose of the plantings to be for decorative purposes only.

I. No permit shall become effective unless the permittee named therein shall simultaneously with the issuance thereof file with the City Street Superintendent in 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 Street Superintendent 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 information and thereupon may ratify the stand taken by the City Street Superintendent or may take any action in relation to the applicant that the City Street Superintendent could take under the provisions hereof.

Section 5. Any person violating any provision of this ordinance shall, upon conviction hereof, be punished by imprisonment in the city jail for a period 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 there

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 7th day of June, 1967.

Approved by the Mayor this 7th day of June, 1967.

Frances Juris

Frances Juris, City Recorder

Wallace L. Boe
Wallace L. Boe, Mayor