

Sherwood Special Committee – Regulation of Camping Ordinance – Second Draft

The City of Sherwood ordains as follows:

Section 1. Chapter 9.54 – Regulation of Camping – is hereby added to the Sherwood Municipal Code as follows:

9.54.010 - Purpose.

This Chapter is enacted to promote and protect the health, safety and welfare of the City's residents as well as property within the City through the regulation of camping on or near areas open to the public as well as on or near vacant lots to address adverse impacts of such activities including littering; public urination; public defecation; public intoxication; theft of water and electricity; verbal and physical assaults; trespass onto adjacent public and private properties; vandalism; property damage; fire hazards; and harassment or intimidation of occupants, employees, and/or customers.

9.54.020 – Definitions

For the purposes of this chapter, the following definitions shall apply:

A. "Area Open To The Public" means all outdoor areas on private property within the City to which the public has access and includes but is not limited to private streets, alleyways and pedestrian ways, vacant or unimproved lots or parcels and the common areas such as parking lots and picnic areas of schools, medical facilities apartment houses, office and industrial buildings, service stations, churches and retail shopping centers.

B. "Camp" or "Camping" means [a period of time in excess of four (4) consecutive hours wherein an individual uses an Area Open To The Public as temporary quarters for the purposes of living, sleeping or residing **OR** the use of an Area Open To The Public as temporary quarters for the purposes of living, sleeping or residing between the hours of 1:00 a.m. and 5:00 a.m.]. Such activities may include, but need not be limited to: (1) sleeping or making preparations to sleep, including the laying down of bedding for the purpose of sleeping; (2) the parking of any motor vehicle, including a motor home, recreational vehicle or trailer, for the apparent purpose of overnight occupancy; (3) storing personal belongings; (4) making any fire; and (5) carrying on cooking activities.

July 29, 2013
Date

Special Comm. Meet
Gov. Body

New Business
Agenda Item

A
Exhibit #

9.54.030 – Regulation of Camping

Except as otherwise provided in this Chapter, no person shall Camp in any Area Open To The Public. Nothing in this Chapter prohibits a person from Camping in lawfully existing areas designated for Camping including campgrounds or recreational vehicle parks.

9.54.040 - Enforcement Responsibility and Authority.

The Sherwood Police Department and the City Manager or the Manager's Designee are jointly charged with the enforcement of this Chapter.

9.54.050 - Variances.

A. Any person may apply for:

1. A Class A variance to Camp in an Area Open To The Public for up to fourteen (14) days in duration; or
2. A Class B variance to Camp in an Area Open To The Public for fifteen (15) or more days in duration.

B. Any person, entity or organization may apply for a variance under subsection (A) on behalf of multiple individuals or person(s).

C. Notwithstanding any other provision of this Chapter, the Chief of Police or City Manager may permit a person to Camp in Areas Open To The Public provided: (1) an emergency situation exists necessitating the need to Camp in the Area Open To The Public; (2) the use of the Area Open To The Public for Camping purposes will not, on balance be unduly detrimental to the public health, safety or welfare; and (3) the owner or person or entity legally controlling occupancy of the Area Open To The Public has consented to the Camping.

9.54.060 - Variance Application.

A. An applicant for a variance shall submit the following information on a form approved by the City:

1. A reference to the provision in this Chapter from which the variance is sought;
2. The reason(s) why the variance is necessary;
3. A general description of the physical characteristics of the Area Open To The Public for which a variance is sought;
4. The variance's time period;
5. The signed consent from the owner or person or entity legally controlling occupancy of the Area Open To The Public for which the variance is sought;
6. Any other supporting information the City Manager or City Council may reasonably require to allow consideration of the conditions set forth in Section 9.52.100.

B. The applicant for a Class A variance shall submit the application to the City Manager or the Manager's designee. The applicant for a Class B variance shall submit the application to the City Recorder, who shall place the matter on the agenda for a forthcoming City Council meeting.

9.54.070 - Public Notification for Class B Variance.

The applicant for a Class B variance shall post notice along the nearest public road at the boundaries of the property containing the Area Open To The Public for which the variance is sought so that the notice is visible from the public road and publish notice thereof in a newspaper of general circulation in the city. Posted notice on the property shall be at least seven days prior to the public hearing with published notice completed at least four days prior to the hearing. Notice under this section shall state the date the council will consider the application, the nature and substance of the variance to be considered, and that written comments on the application may be filed with the City Recorder before the meeting at which the application is to be considered.

9.54.080 - Variance Review.

The City Manager or the Manager's designee or City Council may grant a variance, after considering the written application for variance and any written comments submitted when it appears the following conditions exist:

- A. There are unnecessary or unreasonable hardships or practical difficulties which can be most effectively relieved by granting the variance, and;
- B. The granting of the application will not be unduly detrimental to the public health or safety or welfare.

9.54.090 - Variance Decision.

- A. The City Manager or the Manager's designee shall grant or deny a Class A variance within three days of receipt of a complete variance application, excluding Saturdays, Sundays, and holidays.
- B. The City Council shall grant or deny a Class B variance within thirty (30) days of receipt of the application, and may, on its own motion, hold a public hearing on the application before deciding to grant or deny the variance.
- C. The City Manager or City Council may impose such limitations, conditions and safeguards as deemed appropriate, so that the spirit of the chapter will be observed, and the public safety, health and welfare are secured. A violation of any such condition or limitation shall constitute a violation of this chapter.

D. A decision to grant or deny the variance shall be in writing and shall state the reasons for the decision. The City Council or City Manager shall notify the applicant of the decision and shall make it available to any person who has submitted written comments on the application.

9.54.100 - Review.

The decision of the City Manager or the City Council to grant or deny a variance is final. Such decisions may be reviewed pursuant to ORS 34.010 to 34.100 (writ of review).

9.54.110 – Civil Penalties.

A person who violates any provision of this Chapter is subject to a civil penalty of no more than one hundred dollars (\$100.00) for each day a violation occurs.

Sherwood Special Committee – Regulation of Business Hours – Second Draft

The City of Sherwood ordains as follows:

Chapter 5.04 of the Sherwood Municipal Code is hereby amended by adding section 5.04.100 to read as follows:

5.04.100 Retail Sales and Personal Services Business Hours

A. Purpose and Findings

1. This section regulating the business hours of retail sales and service businesses in the City of Sherwood is designed to:
 - a. Improve the quality of life for residents of the City particularly during the late night/early morning hours;
 - b. Decrease the incidence of arrests, criminal activity and/or nuisance complaints associated with retail sales and personal service businesses during the late night/early morning hours, which the City believes has individually and collectively an adverse impact on the public health, welfare and safety;
 - c. Discourage activities compromising the public safety of City residents during the late night/early morning hours; and
 - d. Provide for efficient, effective and economical provision of scarce government resources in addressing each of the aforementioned purposes.
2. From input provided by City residents and the Sherwood Police Department, the people of Sherwood find uniform closing times for retail sales and personal services businesses located within the City will:
 - a. Permit the City's limited police force on duty during the late night/early morning hours to focus its resources on providing protection to residential neighborhoods rather than responding to shoplifting and other police related calls associated with and that often occur at retail sales and personal service businesses;
 - b. Protect the health, safety and welfare of employees of retail sales and personal services businesses during times in which there are limited police resources available;
 - c. Reduce the incidence of loitering, public drinking, disorderly conduct and related criminal activities including littering, drug dealing, noise disturbances and other unlawful acts that occur when retail sales and personal service businesses are permitted to remain open during the late night/early morning hours, leading to a concomitant reduction in the need for police presence at retail sales and personal service businesses;
 - d. Discourage crowds from congregating not only on the main streets and thoroughfares but on adjoining residential streets, lots and parking areas which prevents neighborhood residents from sleeping, safely walking their streets, and enjoying the peace and quiet of their homes.

July 29, 2013
Date

New Business
Agenda Item

Special Committee
Gov. Body 1

B
Exhibit #

B. Definitions. For purposes of this section, the following definitions apply:

1. "Gasoline Filling Station" means establishments primarily engaged in the sale of gasoline, diesel fuel, propane gas or kerosene where the retail sale of other goods or merchandise comprises less than twenty percent (20%) of the establishment's overall annual sales, provided that a gasoline filling station affiliated with a retail sales business may be deemed a separate entity for the purposes of this section.
2. "Personal Services " means establishments primarily engaged in providing retail services involving the care of a person or his or her goods or apparel including but not limited to movie theaters, laundering, shoe repair, hair and body care, tailoring, travel agents, spas, tanning salons and nutrition/weight loss centers. Direct medical care from establishments such as hospitals, urgent care facilities, nursing homes and long-term care facilities is not a personal service.
3. "Restaurant" means an establishment where the primary activity is the preparation of food and beverages for sale and consumption on or off premises and at which customer tables or counters are typically available. Such an establishment may take phone orders for food and may deliver food to customers off-premises. If such an establishment is also engaged in selling merchandise to the general public for personal or household use or consumption, to qualify as a restaurant at least 80% of the establishment's overall annual sales must be from the sale of prepared food and beverages for consumption on or off premises.
4. "Retail Sales" means establishments engaged in selling merchandise to the general public for personal or household use or consumption and rendering services incidental to the sale of such merchandise including but not limited to specialty shops and boutiques.

C. All retail sales and personal services businesses located within the City may not be open to the public for business between 1:00 a.m. and [5:00 OR 6:00] a.m. daily.

D. Notwithstanding any other provision of this section, the limitations in this section do not apply to the following:

1. Restaurants;
2. Gasoline Filling Stations; or
3. The sale of prescription or non-prescription (over the counter) medications in drugstores and pharmacies, provided that the sale of other merchandise by a drugstore or pharmacy to the general public for personal or household use or consumption prohibited by subsection (C) is not permitted by this subsection.

E. Enforcement responsibility and authority. The Sherwood police department and the city manager's designee shall jointly enforce this chapter.

F. Temporary Late Night Business Permits.

1. A retail sales or personal services business may receive a temporary permit to remain open to the public for business between 1:00 a.m. and [5:00 or 6:00] a.m. or any time period between those hours.
2. An applicant for a temporary permit authorized by subsection (F)(1) shall submit to the City Manager or the Manager's designee in writing on a form provided by the City:
 - a. The name and location of the retail sales or personal services business;
 - b. The dates and times for which the permit is sought, provided that the dates need not be consecutive dates;
 - c. The reason or reasons why the permit is necessary;
 - d. The name and contact information of the owner(s), manager(s) or other individual(s) who will be responsible for the business's operations during the time period in which the permit is sought;
 - e. Any other supporting information which the City Manager may reasonably require to allow consideration of the conditions set forth in subsection (F)(3) below.
3. The City Manager or the Manager's designee, after consideration of the written application, shall be responsible for granting or denying a request for temporary permit. The City Manager or the Manager's designee may grant a permit when it appears that the following conditions exist:
 - a. There is a temporary business need, such as extended holiday hour shopping events, black Friday sales, special product releases or opening nights of special movies, that necessitates the business remaining open to the public for business during the hours of 1:00 a.m. and [5:00 or 6:00] a.m.; and
 - b. The granting of the permit will not be unreasonably detrimental to the public health, safety or welfare.
4. The City Manager or the Manager's designee shall grant or deny an application for a temporary late night permit within five days of receipt of a complete application, excluding Saturdays, Sundays and holidays.
5. When granting a permit under this section, the City Manager or the Manager's designee may place conditions or limits on the permit that are necessary protect employees, customers, and members of the public inside or outside the premises from disruptive conduct, criminal activity, or health, safety or fire hazards. Such conditions may include but need not be limited to the creation of a security plan and/or the hiring of private security guards. A violation of any such condition or limitation shall constitute a violation of this section
6. A decision to grant or deny a permit application shall be in writing and shall state the reasons for such decision. The decision of the City Manager or the Manager's designee is final and may be reviewed only pursuant to a writ filed under ORS Chapter 34.
7. No permit granted under this section shall exceed thirty (30) days.

G. Penalties.

1. Civil Penalties.
 - a. Unless specifically limited elsewhere in the Sherwood Municipal Code, the city manager is authorized to seek civil penalties for a violation of this section in amount(s) of up to one thousand dollars (\$1,000.00) for each day a violation of this section occurs in either the municipal court or another court of competent jurisdiction. In the event the city manager seeks enforcement in a court other than the municipal court, the manager may seek recovery of the City's reasonable attorneys' fees.
 - b. If the enforcement action is brought in the municipal court, the determination of the municipal court is final and reviewable only as provided by the terms of ORS Chapter 34.010 to 34.100 (writ of review).
 - c. When determining the amount of any civil penalty the municipal court or any other court of competent jurisdiction shall consider, at a minimum, the following factors and set out in its determination those believed to apply:
 - i. Prior violations and whether those violations were remedied in a timely manner;
 - ii. The magnitude of the violation;
 - iii. Whether the violation was repeated or continuous; and
 - iv. Whether the violation was intentional.
2. Injunctive Relief. The City may seek equitable relief against retail sales or personal services businesses that have failed to comply with this section or violated any provision thereof.
3. Remedies Not Exclusive. The remedies provided by this subsection are cumulative and not exclusive and are in addition to other rights, remedies, and penalties available to the City under other provisions of law.