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149080

ACCEPTANCE

GEORGE YERKOVICH, AUDITOR
CITY OF PORTLAND, ORE.BY

Portland, Oregon, February 1, 1980

GEORGE YERKOVICH
Auditor of the City of Portland,
Room 202, City Hall
Portland, Oregon 97204

Dear Sir:

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 149080, passed by the Council January 30, 1980, granting a revocable permit to Frederick & Nelson to place and maintain a display stand for flowers in the sidewalk area abutting the west property line of SW 5th Avenue and the north property line of SW Alder Street at their intersection, waiving all conflicting provisions of the Code, providing for payment of an annual \$75.00 fee, subject to certain conditions, and declaring an emergency,

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

FREDERICK & NELSON

BY:

Ted Hodges, Vice President-Director of Stores
521 SW 5th Avenue, Portland, OR 97204

Address

[CORPORATE
SEAL]

APPROVED AS TO FORM
Approved as to form:

City Attorney

*When an acceptance is required from a firm or corporation the Acceptance must be signed by an officer of the firm or corporation stating his or her official title, and corporations must affix the corporate seal.

An Ordinance granting a revocable permit to Frederick & Nelson to place and maintain a display stand for flowers in the sidewalk area abutting the west property line of SW 5th Avenue and the north property line of SW Alder Street at their intersection, waiving all conflicting provisions of the Code, providing for payment of an annual \$75.00 fee, subject to certain conditions, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Frederick & Nelson, 521 SW 5th Avenue, Portland, Oregon 97204, has through Clif Kemp, their Operations Manager for Oregon, requested permission to place and maintain a flower display stand in the sidewalk area of SW 5th Avenue at its intersection with SW Alder Street, adjacent to Lot 4, Block 4, Portland.
2. That utilization of a portion of this sidewalk area, under certain conditions, will not interfere with the free pedestrian use of the sidewalk in this particular area, and its use does not conflict with zoning limitations.
3. That the granting of said permission, under certain conditions, will not be detrimental to the public interest.

NOW, THEREFORE, the Council directs:

- a. Any conflicting provisions of the Code of the City hereby are waived and a revocable permit is granted to Frederick & Nelson, grantee, to place and maintain a flower display stand in the sidewalk area of SW 5th Avenue and SW Alder Street as above described, and extending not more than 20 inches into the sidewalk area from the property line, on the days and during the hours the store is operating, subject to the following conditions:
 - (1) All activities in the sidewalk area shall be supervised by the grantee.
 - (2) That no flowers may be displayed in the public sidewalk except for those within the display stand and those flowers may be sold if authorized by the grantee.
 - (3) The grantee shall pay a permit fee of \$75.00 per calendar year for the right to display flowers in the public sidewalk from the display stand.

- (4) It is assumed in granting this permission that some disturbance to normal use of the sidewalk for pedestrian passage will be created. If, in the opinion of the Bureau of Police, or the City Engineer, this disturbance to the public is being created as a result of the use of the sidewalk, the Bureau of Police or the City Engineer is hereby authorized to cause the grantee to discontinue use of the sidewalk area as authorized by this Ordinance until it feels the situation will be improved or the grantee is authorized to continue by the Council.
- (5) The grantee shall hold the City of Portland, its officers, agents and employees free and harmless from any claims for damages to persons or property, including legal fees and costs of defending any actions or suits, including any appeals which may result from the use of the street area under this permit by providing evidence of insurance protecting the City of Portland, its officers, agents, and employees as follows:
 Bodily injury \$100,000 for one claimant and \$300,000 for one occurrence, property damage \$50,000 for one claimant and \$300,000 for one occurrence, said insurance to be kept in full force and effect at all times. This permit is automatically revoked without further action by the Council if this insurance is permitted to lapse, is cancelled, or for any other reason, becomes inoperative.
- (6) This permit is revocable at any time at the pleasure of the Council and no expenditure of money or lapse of time or other act or thing shall operate as an estoppel against the City of Portland or be held to give the grantee any vested or other right. Upon revocation of this permit by the Council, the grantee shall immediately remove the display stand from the sidewalk.
- (7) The sidewalk and the display stand placed thereon shall at all times be maintained in a clean and attractive condition. The sidewalk shall not be marked or marred in any manner, and at such times that the grantee is not utilizing the sidewalk as authorized herein, the display stand shall be removed therefrom.

Section 2. This Ordinance will not become effective until the grantee has filed with the City Auditor both a document accepting the terms and conditions hereof, and the evidence of insurance, each of which has been approved by the City Attorney.

ORDINANCE No.


149080


Section 3. The Council declares that an emergency exists because delay in the enactment of this Ordinance will result in an unnecessary hardship of uncertainty on the part of the applicant as to the status of the requested permit to use a portion of the sidewalk area of SW 5th Avenue and SW Alder Street; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **JAN 30 1980**

Commissioner Mike Lindberg
Harry Hendrickson/sg
January 15, 1980

Attest:


Mayor of the City of Portland


Auditor of the City of Portland

Calendar No. ³⁴⁸~~251~~

ORDINANCE No. 149080

Title

An Ordinance granting a revocable permit to Frederick & Nelson to place and maintain a display stand for flowers in the sidewalk area abutting the west property line of SW 5th Avenue and the north property line of SW Alder Street at their intersection, waiving all conflicting provisions of the Code, providing for payment of an annual \$75.00 fee, subject to certain conditions, and declaring an emergency.

JAN 24 1980

CONTINUED TO JAN 30 1980

Filed JAN 18 1980

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *Richard E. Johnson*
Deputy

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg	1	
Schwab	1	
McCready	1	

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
COMMISSIONER MIKE LINDBERG

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <i>ML/SA</i>

BUREAU APPROVAL
Bureau:
Street & Structural Engineering
Prepared By: Date:
Harry Hendrickson/sg 1/15/80
Budget Impact Review:
<input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required
Bureau Head:
<i>David J. Vargas</i>
David J. Vargas, Acting Chief

NOTED BY
City Attorney
City Auditor
City Engineer
APPROVED:
John M. Lang, Acting City Engr.
BY: <i>Richard E. Johnson</i>