

Garibaldi Ordinances

ORDINANCE NO. 131

AN ORDINANCE PROVIDING FOR LICENSING AND REGULATION OF SOLICITORS, HAWKERS AND PEDDLERS, ESTABLISHING A LICENSE FEE TO BE PAID, REQUIRING THE DEPOSIT OF A BOND, REQUIRING THE MAINTENANCE OF RECORDS AND PROVIDING FOR VIOLATION.

The City of Garibaldi does ordain as follows:

Section 1. Definitions. As used in this ordinance, the following definitions apply:

"Person" means and includes any natural person, partnership, association, firm or corporation.

"Solicitor" means and includes any person who without appointment goes from house to house or from place to place within the City of Garibaldi selling, taking orders or offering to sell or take orders for goods, wares, merchandise, not intended for resale; insurance; any other article; or for services to be performed or for making, manufacturing or repairing of any article or thing whether for immediate or future delivery or performance.

"Hawker" means and includes any person who within the City of Garibaldi offers for sale goods, wares, merchandise or any other article from a stand, conveyance or vehicle or on the streets with or without outcry.

"Peddler" means and includes any person who within the City of Garibaldi sells or offers for sale goods, wares, merchandise or any other article carried with him or her from house to house or from place to place whether such goods, wares, merchandise or articles are sold or offered for sale directly or by sample or order to be delivered afterwards.

Section 2. Prohibited Sale. No person, firm or corporation shall sell, offer for sale, take orders or conduct business within the limits of the City of Garibaldi in the manner described in Section 1 without first making application for and obtaining a license as provided by this ordinance.

LICENSE

Section 3. Application for License. Any person, firm or corporation desiring to secure a license required by this ordinance shall apply in writing, with his or her authorized signature, to the City Recorder on a form provided by the City and such application shall contain the following:

- a. The name and address of each person who will be so licensed.
- b. The name and address of the employer of each such person.
- c. The length of service for each such person with such employer.
- d. The place(s) of residence and nature of employment for each such person during the immediate preceding year.
- e. The personal description and photograph of each such person.
- f. A description of the goods, wares, merchandise, insurance, articles or services which will be sold, offered for sale or for which orders will be taken.
- g. Credentials and other evidence of the good moral character and identity of each such person as reasonably may be required by the City Recorder.

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Section 4. License Fees. The fee for the license required by this ordinance shall be \$50.00 per fiscal year or fraction thereof, payable in advance, for each person who will be so licensed.

Section 5. Bond. All applicants for a license shall deposit with the City Recorder the sum of \$2,500.00 by a cash undertaking with one sufficient surety or by a commercial surety bond which conform to the requirements of ORCP 82. The cash undertaking or bond shall be conditioned upon the making of final delivery or performance of the goods, wares, merchandise, insurance, articles or services sold or ordered to be in accordance with the terms of the sale or the sale order; failing that, the advance payment on a sale order shall be refunded. Any person aggrieved by the action of a licensed person shall have the right of action on the bond for the recovery of the money or damages or both. Such cash undertaking or bond shall remain on deposit for a period of 180 days after the expiration of the license.

Section 6. Issuance of License. If the City Recorder determines by an investigation which shall be concluded within 30 days after application that the facts set forth in the application are true, that the applicant is of good moral character, that the applicant proposes to engage in a lawful and legitimate commercial or professional enterprise and that the cash undertaking or surety bond required by Section 5 has been posted, the City Recorder shall then approve the application and shall issue a license to each person so approved. Such license shall expire on June 30 in the fiscal year in which such license was issued. Except as hereafter provided, no license shall be issued until the conclusion of the investigation required above.

Section 7. Revocation of License. Any license may be revoked by the City Recorder for the violation by a licensed person, by his or her employer, or by its agents or employees, of any ordinance of the City or of any state or federal law or whenever the licensed person ceases to possess the character and qualifications required by this ordinance by mailing written notice of such revocation to the affected person at his or her address stated on the application or at his or her place of business. Upon written request within 10 days after the date of such written notice of revocation, the affected person shall have a right to a public hearing before the City Council, with adequate prior public notice thereof, and the hearing shall be conducted according to the Oregon Administrative Procedure Act.

Section 8. Carry License. A copy of a license issued pursuant to this ordinance shall be carried by each licensed person at all times when conducting business within the City of Garibaldi and shall be exhibited by such licensed person whenever he or she is requested to do so by any police officer or by any other person contacted while so conducting business.

RECORDS

Section 9. Copy of Records. All sales and sale order taken by a licensed person shall be in writing and in duplicate, stating: a) the date of the sale or sale order, b) the name and address of the purchaser, c) the name of the licensed person and the name and address of his or her employer, d) a description of the item(s) or service so sold or ordered, e) the price paid for each item with the amount paid in advance and f) the sale or sale order; and one copy shall be given to the purchaser.

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APPLICATION AND PENALTY

Section 10. Applicable Law. The provisions of the Home Solicitation Sales Act (ORS 83.710 et seq) are incorporated and made a part of this ordinance. A violation of the Home Solicitation Sales Act shall constitute a violation of this ordinance.

Section 11. Exceptions. This ordinance shall not apply to any person who is a resident of Tillamook County, Oregon and who is soliciting or selling merchandise on behalf of a recognized youth, school, church, civic or charitable organization.

Section 12. Penalty. Any person, firm or corporation which violates this ordinance shall be guilty of a violation for which a fine of \$250.00 may be imposed. Each day on which such a violation occurs or continues shall constitute a separate offense.

MISCELLANEOUS

Section 13. Saving Provision. If any section, sentence, clause, phrase or other part of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining part hereof.

Section 14. Repealed Ordinances. All ordinances or parts of ordinances of the City of Garibaldi in conflict with the terms of this ordinance are hereby repealed.

PASSED AND ADOPTED by the Common Council and APPROVED by the Mayor on this 10 day of March, 1986.

C. Joanne Dalziel
C. JOANNE DALZIEL Mayor

ATTEST:

Saundra Jones
SAUNDRA JONES City Recorder