

ORDINANCE NO. 4

THE INITIATIVE AND REFERNDUM  
ORDINANCE OF GARIBALDI CITY.

The people of Garibaldi City do ordain as follows:

ARTICLE I

INTRODUCTORY PROVISIONS

Section 1. DEFINITIONS. As used in this ordinance--

- (1) the term "measure" means--
  - (a) a legislative enactment passed by the common council and not necessary for immediate preservation of the public peace, health, or safety;
  - (b) a part of such an enactment; or
  - (c) a proposed legislative enactment for Garibaldi City;
- (2) the term "voter" means a legal voter of Garibaldi City;
- (3) the term "general election" means a general November election;
- (4) the term "petition" means an initiative or referendum petition for ordering a measure to be submitted to the voters; and
- (5) the term "refer" means to order the referendum for.

Section 2. SUBSTANTIAL COMPLIANCE. A document provided for in this ordinance which complies substantially with the requirements of the ordinance concerning its form shall be deemed to satisfy those requirements.

ARTICLE II

INITIATIVE

Section 3. MANNER OF INSTITUTING. The manner of proposing a measure by the initiative shall be to deposit with the recorder a duly prepared petition ordering the measure to be submitted to the voters.

Section 4. FORM OF PETITION. No initiative petition shall be deemed duly prepared unless it is in the following form:

Warning

It is an offense for a person to sign this petition unless he is a legal voter of Garibaldi City, or to sign it with a name not his own, or knowingly to sign his name to it more than once.

PETITION FOR INITIATIVE

To \_\_\_\_\_, recorder of Garibaldi City:

We, legal voters of Garibaldi City order that the attached measure be submitted to the legal voters of Garibaldi City for their approval. Each of use for himself says: I have signed this petition, I am a legal voter of Garibaldi City, and my address is written correctly after my name.

Name

Address

1. \_\_\_\_\_ \*

\* In such drawing the petition provides twenty numbered lines such as this for signatures and addresses.)

Section 5. PRESENTATION OF MEASURE TO COMMON COUNCIL. At the next session of the common council after the proposal of an initiative measure the recorder shall present the measure to the common council.

Section 6. SUBMISSION OF MEASURE TO VOTERS. The recorder shall cause to be submitted to the voters at the times fixed by this ordinance all charters and charter amendments proposed by the initiative and all other initiative measures not enacted by the common council within sixty days after their proposal.

ARTICLE III

REFERENDUM

Section 7. MANNER OF REFERRING MEASURE. The manner of referring a measure shall be --

- (1) for a person to deposit with the recorder a duly prepared referendum petition concerning the measure or
- (2) for the common council to order submission of the measure to the voters.

Section 8. FORM OF PETITION. No referendum petition shall be deemed duly prepared unless it is in the following form:

Warning

It is an offense for a person to sign this petition unless he is a legal voter of Garibaldi City, or to sign it with a name not his own, or to sign his name to it knowingly more than once.

PETITION FOR REFERENDUM

To \_\_\_\_\_ Recorder of Garibaldi City:

We legal voters of Garibaldi City order that the attached \_\_\_\_\_ \* no. \_\_\_\_ of Garibaldi City, entitled \_\_\_\_\_ and passed \_\_\_\_\_ 19 \_\_, be referred to the legal voters of Garibaldi City for their approval. Each of us for himself says: I have signed this petition, I am a legal voter of Garibaldi City, and my address is written correctly after my name.

Name

Address

1. \_\_\_\_\_ \*

( \* in drawing the petition insert in this blank a term )  
( indicating for what the referendum is being ordered, for )  
( instance, ordinance or provisions of ordinance. )  
( \* In drawing the petition provide twenty numbered )  
( lines such as this for signatures and addresses. )

Section 9. TIME FOR REFERRING MEASURE BY PETITION. No referendum petition shall be deemed duly prepared unless it and the signatures requisite to its being deemed duly prepared are deposited with the recorder as follows--

- (1) for a measure approved by the mayor, within thirty days after the approval;
- (2) for a measure passed over the mayor's veto, within thirty days after the passage; and
- (3) for a measure enacted by the common council but neither approved nor vetoed by the mayor, within thirty days after the common council enacts the measure.

Section 10. TIME FOR COMMON COUNCIL TO REFER MEASURE. The common council may refer a measure only at the session at which it enacts the measure.

Section 11. NO VETO OF REFERRED MEASURE. The mayor shall have no power to veto a measure which the common council refers.

Section 12. SUBMISSION OF MEASURE TO VOTERS: The recorder shall cause a referred measure to be submitted to the voters at the time fixed by this ordinance.

#### ARTICLE IV

##### PETITIONS

Section 13. PROCEDURE PRIOR TO CIRCULATION OF PETITION.

- (1) Presentation for Checking, Specifications, and Preparation of Titles. No petition shall be deemed duly prepared unless--
  - (a) prior to its circulation a copy of it is deposited with the recorder, and
  - (b) as circulated it complies with the specifications listed below which he makes concerning it and contains the titles required by this ordinance for the measure for which it is being circulated.
- (2) Checking, Specifications, and Preparation of Titles. When a copy of a petition to be circulated is deposited with the recorder immediately he shall--
  - (a) check it for the legal sufficiency of the form in which it appears;
  - (b) advise the person depositing it whether it is legally sufficient in form and, if it is not so, how to make it so;
  - (c) specify the mode of writing or printing the petition and the size and kind of paper on which to state it; and
  - (d) if he is not responsible for preparing the titles required by this ordinance for the measure to which the petition relates, transmit the copy to the person charged with that responsibility.

(3) Standards for Specifications. In making the specifications the recorder shall consider--

- (a) the requirements of this ordinance
- (b) the convenience of the petitioners and voters, and
- (c) his own convenience when the circulated petition is deposited with him.

Section 14. REQUISITE NUMBER OF SIGNATURES. The number of signatures on a petition requisite to its being deemed duly prepared shall be, for an initiative petition, 15%, and for a referendum petition, 10 per cent of the number of votes cast for the office of mayor at the mayoralty election last preceding the deposit of the petition with the recorder after its circulation.

Section 15. ATTACHMENT OF MEASURE TO SHEETS FOR SIGNATURES. No signature on a petition shall be counted unless at the time the signature is signed a copy of the measure to which the petition refers is attached to the sheet on which the signature is signed.

Section 16. VERIFICATION OF SIGNATURES. No signature on a petition sheet shall be counted unless the person who circulates the sheet verifies it by an affidavit in the following form--

State of Oregon )  
County of Tillamook ) ss  
City of Garibaldi )

I, \_\_\_\_\_, being first duly sworn, state that each signer of this sheet signed it in my presence, and that I believe that he stated his name and address correctly on the sheet and is a legal voter of Tillamook City.

\_\_\_\_\_  
Address of affiant:  
\_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires \_\_\_\_\_ 19\_\_\_\_.

Section 17. CERTIFICATION OF SIGNATURES

(1) Certification by recorder. Within five days after a circulated petition is deposited with him the recorder shall--

- (a) compare the signatures on it with the signatures on the registration records in the office of the clerk of Tillamook County, Oregon, and
- (b) attach to the petition a certificate in the following form--



(3) Effect of Certificate: A certificate provided by this section shall be prima facie evidence--

- (a) of the facts which it states and
- (b) of the qualifications of the voters whose signatures it certifies to be genuine.

Section 18. SIGNATURES TO BE COUNTED. In determining whether a petition contains the number of signatures requisite to its being deemed duly prepared, the recorder shall count, except signatures forbidden by this ordinance to be counted, all signatures on the petition which either he or a notary public resident in Garibaldi City has certified to be genuine.

#### ARTICLE V

#### BALLOT TITLES

Section 19. PREPARATION OF BALLOT TITLES.

(1) Time for Preparation. The ballot title for a measure submission of which to the voters is proposed to be ordered by a petition shall be prepared and in the hands of the recorder within five days after a copy of the petition is first deposited with him.

(2) Initial Preparation. When a petition for ordering submission of a measure to the voters is first deposited with the recorder--

(a) if the City of Garibaldi has an attorney and the attorney is not prevented by reason of absence from the city of Garibaldi or physical inability from preparing the ballot title within the time in which this section requires preparation of the title, then the recorder, immediately upon receiving the copy of the petition shall transmit to the attorney a copy of the measure and the attorney, within the time in which this section requires preparation of the title, shall prepare it and transmit it to the recorder, or

(b) If the city of Garibaldi has not an attorney or its attorney is prevented by reason of absence from the City of Garibaldi or physical disability from preparing the ballot title within the time in which this section requires preparation of the title, then the recorder, within that time, shall prepare the title.

- (3) Appeal to Common Council. A voter dissatisfied with the title may, within five days after it is prepared and in the hands of the recorder, appeal to the common council by a written appeal deposited with the recorder, asking for a different ballot title for the measure, and stating why the title prepared is improper.
- (4) Action on Appeal. Within three days after deposit of the appeal with the recorder, the common council shall afford the appellant a hearing and by resolution either approve the title or prescribe another ballot title for the measure. The Title thus adopted shall be the title of the measure on the ballot.

Section 20. REQUISITES OF BALLOT TITLE.

- (1) Ballot Title for a measure shall contain not more than 175 words and shall state the purpose of the measure.
- (2) Accuracy and Fairness. The ballot title for a measure, to the best of the ability of whoever prepares it--
  - (a) shall state truly and impartially the purpose of the measure in language which is not an argument and does not tend to create prejudice concerning the measure and,
  - (b) shall not resemble, so far as probably to create confusion, the ballot title for another measure to be submitted to the voters at the same election as the one at which the first-mentioned measure is to be submitted to them.

ARTICLE VI

ELECTIONS

Section 21. TIME TO VOTE ON MEASURE. The time to vote on a measure which is required to be submitted to the voters, and which has not been voted on by them at a previous time shall be the first general election held more than ten days after the measure is proposed or referred.

Section 22. TITLE AND NUMBERS OF MEASURES ON BALLOTS.

- (1) Titles. On a ballot a measure shall appear by ballot title only.

- (2) Order. On a ballot for an election the order of measures to be voted upon at the election shall be the order in which the petitions for the respective measures are deposited with the recorder.
- (3) Initiative and Referendum Measures to be Distinguished. On a ballot initiative measures shall be distinguished from referred measures.
- (4) Numbers. On a ballot the spaces for votes on the first measure shall be designated "500 Yes" and "501 No," and the spaces for votes on the succeeding measures on the ballot shall be numbered consecutively "502 Yes" and "503 No", "504 Yes" and "505 No," and so on.

Section 23. NOTICE OF SPECIAL ELECTION

- (1) Posting. In case of a special election on a measure the recorder, at least seven days before the election, shall--
  - (a) issue three notices of the election,
  - (b) post them in three public places of Garibaldi City, including Garibaldi City Hall, and
  - (c) cause a notice of the election to be published in two consecutive issues of a newspaper of general circulation in The City of Garibaldi.
- (2) Form. The form of the notices shall be as follows--

NOTICE OF SPECIAL ELECTION

On \_\_\_\_\_\*,  
 19\_\_\*\*, in the City of Garibaldi, Tillamook County,  
 Oregon from \_\_\_\_\_ a.m. till \_\_\_\_\_ p.m., a special election  
 will be held at which the following \_\_\_\_\_\* will be  
 submitted to the voters:

-----\*

The polling places for the election will be as follows:

Precinct	Polling Place
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Witness my hand and the seal of the City of Garibaldi,  
 this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

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Recorder

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\* In drawing the notice, insert in this blank, the day of the week on which the election is to be held.  
 \*\* In drawing the notice, insert in these blanks the date on which the election is to be held.

- (2) Order. On a ballot for an election the order of measures to be voted upon at the election shall be the order in which the petitions for the respective measures are deposited with the recorder.
- (3) Initiative and Referendum Measures to be Distinguished. On a ballot initiative measures shall be distinguished from referred measures.
- (4) Numbers. On a ballot the spaces for votes on the first measure shall be designated "500 Yes" and "501 No," and the spaces for votes on the succeeding measures on the ballot shall be numbered consecutively "502 Yes" and "503 No", "504 Yes" and "505 No," and so on.

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  - (c) cause a notice of the election to be published in two consecutive issues of a newspaper of general circulation in The City of Garibaldi.
- (2) Form. The form of the notices shall be as follows--

NOTICE OF SPECIAL ELECTION

On \_\_\_\_\_\*,  
 19\_\_\*\*, in the City of Garibaldi, Tillamook County,  
 Oregon from \_\_\_\_\_ a.m. till \_\_\_\_\_ p.m., a special election  
 will be held at which the following \_\_\_\_\_\* will be  
 submitted to the voters:

\_\_\_\_\_\*

The polling places for the election will be as follows:

Precinct	Polling Place
----------	---------------

Witness my hand and the seal of the City of Garibaldi,  
 this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

\_\_\_\_\_  
 Recorder

\* In drawing the notice, insert in this blank, the day of the week on which the election is to be held.  
 \*\* In drawing the notice, insert in these blanks the date on which the election is to be held.

- ( \* In drawing the notice, insert in this blank either )  
( the words measure or the words measures. )
- ( \* In drawing the notice, insert in this blank the )  
( number and ballot title of each measure to be voted )  
( upon at the election. )
- ( \* In drawing the notice provide as many lines like )  
( this as are needed and fill them appropriately. )

Section 24. NOTICE AT GENERAL ELECTION. Where a measure is to be voted upon at a general election the notice of the election shall state that fact and the ballot title and number of each measure to be voted upon at the election.

Section 25. FURNISHING INFORMATION ON MEASURES TO COUNTY CLERK. Where a measure is to be voted upon at a general election the recorder, at least forty days previous to the election, shall furnish to the clerk of Tillamook County, Oregon, a certified copy of the ballot title and number of each measure to be voted upon at the election, providing population of City of Garibaldi exceeds 2,000.

Section 26. ADVERTISING OF MEASURE. In case of the submission of a measure to the voters the recorder, not less than seven and not more than thirty days prior to the election at which the measure is to be voted upon, shall cause the title thereto to be published in two consecutive issues of a newspaper of general circulation in the City of Garibaldi.

Section 27. ELECTION RETURNS. The votes on measures shall be counted, canvassed, and returned as follows--

- (1) in case of general elections, in the same manner as other votes cast at general elections in the City of Garibaldi, and
- (2) in case of special elections, in the manner provided by Tillamook City charter and ordinances.

## ARTICLE VII

### EFFECT OF MEASURES

Section 28. PROCLAMATION BY MAYOR.

- (1) Time and Content Immediately upon the completion of the canvass of the votes on a measure submitted to the voters pursuant to this ordinance the mayor shall issue a proclamation--
  - (a) recapitulating the vote on the measure,
  - (b) declaring whether the vote shows a majority of those who voted on the measure to be in favor of it, and
  - (c) in case the vote shows a majority of them to be in favor of the measure, announcing it to be effective from the date of the vote.
- (2) Publication or Posting. Public notice of the proclamation shall be given by--
  - (a) publishing it once in a newspaper of general circulation in the city of Garibaldi or
  - (b) Posting a copy of it on the Garibaldi City Hall Building.

- (3) Filing With Measure. The proclamation shall be filed with the measure.

Section 29. EFFECTIVE DATE OF APPROVED MEASURES. A referred measure or an initiative measure shall take effect only when approved by a majority of the voters voting upon it.

Section 30. REFERABLE MEASURES. A measure, so long as it is subject to the referendum, shall have no effect.

Section 31. CONFLICTING MEASURES. Where measures approved by the voters at an election conflict, of the conflicting measures the one receiving the greater number of affirmative votes shall be paramount in all particulars concerning which the measures conflict.

## ARTICLE VIII

### CRIMINAL PROVISIONS

#### Section 32. UNLAWFUL ACTS.

- (1) Signing by One Not a Voter. No person other than a voter shall sign his name to a petition.
- (2) Signing Another's name. No person shall sign a petition with a name not his own.
- (3) Signing Petition More than Once. No person shall sign his name to a petition with knowledge that he has previously signed his name to the petition.
- (4) Circulating or Filing Petition With Unlawful Signature. No person shall knowingly circulate or deposit with the recorder a petition containing a signature signed in violation of this ordinance.
- (5) Procuring Signature by Fraud. No person shall procure or attempt to procure a signature to a petition by fraud.
- (6) Making False Statement. Concerning a petition no person shall make a statement which he knows to be false.
- (7) Making False Document. No person shall make a document for which this ordinance provides which contains a false statement.
- (8) Paying or Receiving Consideration for Signatures. No person shall pay or receive a valuable consideration for procuring a signature to a petition.

Section 33, PENALTY. A person who violates a provision of this article shall be punished by--

- (1) A fine of not more than \$100.00;
- (2) imprisonment in jail not more than 50 days or
- (3) Both

The foregoing ordinance was:

Read for the first time in open council May 13, 1946  
at the hour of 9:05 P.M..

Read the second time in open council May 27, 1946  
at the hour of \_\_\_\_\_ P.M.

Read for the third time in open council May 27, 1946  
at the hour of \_\_\_\_\_ and being then and there  
before the council upon the question "Shall the ordinance pass?",  
the roll being called resulted as follows:

Fessler	Fellows
Jones	Gay
Tilden	

Approved this 27 day of May, 1946.

Erwin J. Fisher  
Mayor

Attest:

B. A. Spencer  
Recorder-Treasurer