

AN ORDINANCE DEFINING AND PUNISHING OFFENSES AGAINST THE PUBLIC PEACE, SAFETY, MORALS, AND GENERAL WELFARE. (46)

THE CITY OF GARIBALDI DOES ORDAIN AS FOLLOWS:

Section 1. DEFINITIONS

- (a) the term "person" as used in this ordinance shall be deemed to refer to and include any natural person, firm, copartnership, association, or corporation, whether he or it is acting for himself or itself or as the clerk, servant, employe, or agent of another.
- (b) The doing of any act or thing prohibited or the failing to do any act or thing commanded to be done in this ordinance within the corporate limits of the city of Garibaldi, is hereby declared to be an offense against the public peace, safety, morals, and general welfare of the people of the city of Garibaldi.

Section 2. DISORDERLY CONDUCT. It shall be unlawful for any person to be guilty of any violent, riotous, or disorderly conduct, or of any obscene, immoral, indecent, lewd, or licentious act, or to use any profane or obscene language in any public place.

Section 3. VAGRANCY. Any person without visible means of living who has the physical ability to work and who does not for the space of ten days seek employment nor labor when employment is offered him; every healthy beggar who solicits alms as a business; every idle or dissolute person or associate of known thieves who wanders about the streets or highways at late or unusual hours of the night, or who lodges in any place other than such as is kept for lodging purposes, without the permission of the owner or party entitled to the possession thereof; and every lewd and dissolute person who lives in or about a house of ill fame; and every common prostitute shall be deemed guilty of an offense.

Section 4. ASSAULT AND BATTERY. It shall be unlawful for any person, whether or not armed with a dangerous weapon, to attack, assault, or commit battery upon another.

Section 5. CONCEALED WEAPONS. It shall be unlawful for any person to carry concealed about his person in any manner whatever a revolver, pistol, or other firearm, or any knife (other than an ordinary pocketknife), or any dirk, or dagger, slung shot or metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of another.

Section 6. FIREARMS, DISCHARGING OF. It shall be unlawful for any person to discharge any type of firearm; provided, however, that nothing herein contained shall apply to any peace officer while acting in performance of his duties or to any person lawfully using a firearm in defense of his property or person.

Section 7. AFTER HOURS. It shall be unlawful for any person to roam or wander about the streets at late or unusual hours of the night without having any lawful business or occasion to be upon such streets at said time.

Section 8, DRUNKENNESS. It shall be unlawful for any person to be found in an intoxicated or drunken condition on any street or in any public place.

Section 9. DRINKING IN PUBLIC PLACES. It shall be unlawful for any person to drink any intoxicating liquor upon any street or in any public place; provided, however, that nothing in this section contained shall be deemed to apply to the drinking of any intoxicating liquor in any establishment wherein the same may be sold for premise consumption under the laws of the State of Oregon.

Section 10. DRUNK, DRIVING WHILE. It shall be unlawful for any person who is a habitual user of narcotic drugs or who is under the influence of intoxicating liquor of narcotic drugs or who is under the influence of intoxicating liquor or narcotic drugs to drive any vehicle upon the streets.

Section 11. DRUNKS, SELLING OR PLEDGING PROPERTY. It shall be unlawful for any pawnbroker, junk dealer, chattel-loan broker, or any other person to purchase property from any person who is in an intoxicated condition or under the influence of any narcotic drug, or to advance or to loan money to such person, or to have any dealings with any such person respecting the title of property.

Section 12. GAMBLING AND LOTTERY PLACES. It shall be unlawful for any person to operate or assist in the operation of any gambling game played for money or other representative of value, or to operate or assist in the operation of any lottery.

Section 13. GAMBLING AND LOTTERY PLACES, VISITING. It shall be unlawful for any person to visit or frequent any gambling place or place where a lottery is conducted.

Section 14. GAMBLING PARAPHERNALIA: It shall be unlawful for any person to have in his possession any property, instrumentality, or device designed or peculiarly adapted for use in any gambling game. Any such property, instrumentality, or device is hereby declared to be a nuisance, and it shall be the duty of any police officer to seize any such gambling paraphernalia and forthwith to deliver the same into the custody of the _____. Upon the conviction of any person violating the provisions of this section, it shall be the duty of the _____ to order any gambling paraphernalia so taken from such person to be confiscated and destroyed.

Section 15. DISORDERLY HOUSES. It shall be unlawful for any person to set up, operate, or maintain, or to aid, abet, or assist in the setting up, operating, or maintaining of any disorderly house. The term "disorderly house" as used in this ordinance shall be held to include any house or place kept for the purpose of prostitution, fornication, lewdness, or other immoral practices,

any gambling house, or any house or room maintained as a place for the use of narcotic drugs. In any prosecution for the offenses defined herein, common fame shall be competent evidence in support of the charge.

Section 16. DISORDERLY HOUSES, VISITING. It shall be unlawful for any person to be in animate or resident of any disorderly house or for any person to visit or frequent any such house; provided, that this section shall not apply to physicians or officers acting in the discharge of their professional or official duties.

Section 17. DISORDERLY HOUSES, LEASING PROPERTY FOR. It shall be unlawful for any person to lease or let his house or building for the purpose of keeping therein any disorderly house or knowingly to permit his house or building to be so used. It shall be the duty of any person who upon ascertaining that his house or building is so occupied and used to oust the occupants thereof immediately.

Section 18. SOLICITATION. It shall be unlawful for any person to solicit another to visit or enter any disorderly house.

Section 19. PROSTITUTES, LYING ON EARNINGS OF. It shall be unlawful for any person to live in or about a house of ill fame, or habitually to associate with or live off a common prostitute, or to receive from a common prostitute any part or all of her earnings, or to solicit or attempt to solicit any person to have sexual intercourse with a prostitute.

Section 19. INDECENT EXPOSURE. It shall be unlawful for any person willfully and lewdly to expose his person or the private parts thereof in any public place or in any place where there are present other persons to be offended or annoyed thereby, or to make any other exhibition of himself to public view such as is offensive to decency or is adapted to excite vicious or lewd thoughts or acts.

Section 21. OBSCENE PHOTOGRAPHS. It shall be unlawful for any person to design, copy, draw, photograph, prepare, publish, sell, lend, give away, distribute, show, exhibit, or have in his possession with intent to sell, lend, give away, distribute, show, or exhibit any article or instrument of indecent or immoral use, or any obscene or indecent book, paper, printed matter, picture, drawing photograph, or engraving.

Section 22. LASCIVIOUS COHABITATION. It shall be unlawful for any man and woman not being married to each other to cohabit lewdly or lasciviously.

Section 23. IMMORAL ACTS. It shall be unlawful for any person to commit willfully and wrongfully any act which grossly injures the person or property of another, or which grossly defiles the peace or the public health, or which grossly outrages public decency and is injurious to public morals.

Section 24. IMMORAL SHOWS. It shall be unlawful for any person to give or to take part in giving any show, play, exhibition, entertainment, or moving picture display of an indecent, lewd, or immoral character.

Section 25. MASHING. It shall be unlawful for any male person to accost insolently or without cause any female or to seek impertinently to attract or gain the attention of any such female or to ogle vulgarly, make improper advances, or indecent remarks to any such female or to indulge in the practice commonly known as "mashing," upon the streets or in public places.

Section 26. MINORS, EMPLOYMENT IN CERTAIN PLACES. It shall be unlawful for any person to employ a minor in or about any cardroom, poolroom, billiard room, shooting gallery, or dance hall.

Section 27. MINORS, EMPLOYMENT IN LIQUOR ESTABLISHMENT. It shall be unlawful for any person operating any establishment licensed under the laws of the state of Oregon to vend or distribute intoxicating liquor to engage or permit any minor to handle, distribute, or sell any intoxicating liquor.

Section 28. MINORS, DELIVERY OF MEDICINE SAMPLES TO. It shall be unlawful for any person to distribute or give away samples of any medicine or drug unless the same be manually delivered to an adult person or mailed to an adult person through the United States mails.

Section 29. MINORS, PURCHASE OF PROPERTY FROM. It shall be unlawful for any person to purchase any property or article of value from any minor or to have any dealings respecting the title of any property in the possession of any minor without the written consent of the parent or guardian of such minor.

Section 30. MINORS, VISITING DISORDERLY HOUSES. It shall be unlawful for any minor to go into or visit under any pretext or for any purpose whatever any disorderly house. It shall be unlawful for any person to procure, request, or induce any minor to go into or visit any such place. Any minor violating the provisions hereof shall forthwith be taken into custody and remanded to the jurisdiction of the juvenile court for such action as such court may deem appropriate under the circumstances.

Section 31. MINORS, CAUSING TO BECOME DELINQUENT OR DEPENDENT. It shall be unlawful for any person to willfully any act which causes or tends to cause any minor child to become dependent or delinquent, as such dependency or delinquency is or may be defined by the laws of the state of Oregon.

Section 32. MINORS, SALE OF LIQUOR TO. It shall be unlawful for any person to sell, barter, trade, or give away to any minor any intoxicating liquor.

Section 33. MINORS, VISITING POOL HALLS. It shall be unlawful for any minor to enter, visit, or loiter in or about any poolroom, billiard room, or cardroom. It shall be unlawful for any person operating or assisting in the operation of any pool hall, billiard hall, or cardroom to permit any minor to enter, visit, or loiter about any such premises.

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Section 34. MINORS, TOBACCO SALES TO. It shall be unlawful for any person, directly or indirectly, or by any pretense or device, to sell, offer for sale, or keep for sale, or to exchange, barter, dispose of, or give away to any minor any cigarettes, cigarette papers, cigars, smoking tobacco, or tobacco in any other form.

Section 35. MINORS, TOBACCO CONSUMPTION. It shall be unlawful for any minor to use or consume any form of tobacco.

Section 36. BEGGING. It shall be unlawful for any person to beg or solicit alms or other gratuities upon the streets or in any public place; provided, however, that this section shall not apply to the solicitation of gratuities by recognized charitable or eleemosynary associations or institutions.

Section 37. SPITTING ON SIDEWALKS. It shall be unlawful for any person to spit or expectorate upon any sidewalk, street, parking, or on any building or in any public place, except in receptacles provided for that purpose, or to defile in any manner whatsoever any drinking fountain used by the public.

Section 38. OCCULT ARTS. It shall be unlawful for any person to engage in the practice of fortunetelling, astrology, phrenology, palmistry, clairvoyance, mesmerism, or spiritualism, or to conduct any spiritualistic readings or exhibitions of any such character for hire or profit; provided, however, that this section shall not be deemed to prohibit any person from conducting or carrying on any of the above-mentioned arts if duly licensed so to do under any of the ordinances of the city of Garibaldi.

Section 39. INNKEEPERS, DEFRAUDING OF. It shall be unlawful for any person to obtain, with intent to defraud, food, lodging, or other accommodations at any hotel, apartment house, boarding house, tourist camp, or restaurant. It shall be unlawful for any person who, after having obtained such food, lodging, or other accommodations at any hotel, apartment house, boarding house, or tourist camp, surreptitiously to remove his baggage and clothing from such hotel, apartment house, boarding house, or tourist camp without first paying or tendering payment for such food, lodging, or other accommodations.

Section 40. ANIMALS, POISONING OF. It shall be unlawful for any person to put out or place any poison where the same is liable to be eaten by any horse, cattle, sheep, hog, dog, or other domestic animal.

Section 41. ANIMALS, CRUELTY TO. It shall be unlawful for any person to overwork, torture, beat, mutilate, deprive of necessary sustenance, or cruelly kill any animal.

Section 42. ANIMALS, VEHICLES INJURING. Any person operating a vehicle, as defined by the Uniform Traffic Act of the state of Oregon, upon the streets of the city of Garibaldi, who shall run over, strike, injure, maim, or kill any domestic animal shall immediately stop and render aid to such animal, if injured, or provide for the disposition of the carcass, if such animal be killed. Such person shall in either case make due and diligent inquiry to determine the owner of such animal and, if the owner be found, he shall notify him of the occurrence.

Section 43. ANIMAL CARCASS, REMOVAL. It shall be unlawful for any person to suffer or permit the carcass of any animal owned by him to remain upon the public streets or ways, and no person who is the owner or occupant of any property shall suffer or permit the carcass of any animal to remain thereon. It shall be the duty of such owner or occupant forthwith to cause such carcass to be buried or other disposition made of the same.

Section 44. BIRDS, KILLING OF. It shall be unlawful for any person to discharge any firearm, air gun, or other similar device, or to throw any missile at any nongame bird with the intent to injure or kill the same.

Section 45. AIR GUNS. It shall be unlawful for any person to discharge an air gun or to use any bean shooter, sling shot, or other similar weapon or device.

Section 46. RELIGIOUS ASSEMBLIES, DISTURBING. It shall be unlawful for any person to disturb or disquiet any congregation or assembly met for religious worship or for any other lawful purpose by making loud and unnecessary noises or by rude and indecent behavior or profane language within any place of assembly, or so near to the same as to disturb the order and solemnity of the meeting.

Section 47. SIDEWALKS, DRIVING ON. It shall be unlawful for any person to ride or drive any horse or other animal or any motor vehicle upon, over, or across any sidewalk except where a proper incline or crossing is provided for that purpose.

Section 48. BUILDING ENTRANCES, OBSTRUCTING. It shall be unlawful for any person to obstruct any entrance to any building or to loiter unnecessarily about or near any entrance, stairway, or hall leading to any building.

Section 49. FIRE APPARATUS, INJURY TO. It shall be unlawful for any person to lead, ride, or drive any horse or other animal or to operate any vehicle over or upon any fire hose or to disturb or injure in any manner any hose, engine, or appliance or apparatus belonging to or used by the fire department.

Section 50. FIRE ALARMS. It shall be unlawful for any person to turn in any false fire alarm.

Section 51. SIDEWALKS, OBSTRUCTING. It shall be unlawful for any crowd or collection of persons to gather or to stand upon any sidewalk or street crossing so as to prevent, interrupt, or obstruct the travel or free passage over the same by the public or for any person to fail or refuse to disperse or move on when directed to do so by any peace officer.

Section 52. STREETS AND SIDEWALK, OBSTRUCTING. It shall be unlawful for any person to place or deposit upon any street or sidewalk any article which tends to prevent, interrupt, or obstruct the travel or free passage of pedestrian and vehicular traffic.

Section 53. VENDING GOODS BY PUBLIC OUTCRY. It shall be unlawful for any person to use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares, or merchandise by public outcry or otherwise; provided, however, that this section shall not apply to the vending of merchandise by persons having a legal permit so to do under the ordinances of the city of Garibaldi.

Section 54. FIRES, DISORDERLY CONDUCT AT. It shall be unlawful for any person at or near a fire to conduct himself in a disorderly manner or to refuse to observe promptly any order of any member of the fire department or to resist, obstruct, or hinder any member of the fire department. For the purposes of this section all members of the fire department shall be endowed with the same powers of arrest as are conferred upon peace officers for violations of the ordinances of the city of Garibaldi.

Section 55. CELLAR DOORS, LEAVING OPEN. It shall be unlawful for any person to keep or leave open any cellar door or grating of any kind in or upon any sidewalk except when the same is necessarily open during the immediate use thereof. During such time such opening shall be properly guarded and protected.

Section 56. PUBLIC RECORDS, TAKING OF RETENTION. It shall be unlawful for any person to take or remove any paper, document, or personal property owned by the city unless the permission of the legal custodian thereof is first obtained, and no person shall keep or retain any such paper, document, or other personal property after demand for the return thereof has been made by the legal custodian.

Section 57. PLANTS, DESTRUCTION. It shall be unlawful for any person maliciously or wantonly to cut down, destroy, or injure any flower, bush, shrub, or tree standing or growing upon the property of another.

Section 58. POSTED NOTICES, DEFACEMENT. It shall be unlawful for any person willfully to deface or tear down any official notice or bulletin posted in conformity with law.

Section 59. POSTERS, UNAUTHORIZED. It shall be unlawful for any person to affix a placard, bill or poster upon any personal or real property, private or public, without first obtaining permission of the owner or proper public authority.

Section 60. PROPERTY, MALICIOUS DESTRUCTION. It shall be unlawful for any person maliciously to deface, injure, or destroy any personal or real property of another.

Section 61. TRESPASS. It shall be unlawful for any person to trespass upon the property or premises of another.

Section 62. INJURIOUS SUBSTANCES, DEPOSIT ON STREETS. It shall be unlawful for any person willfully to place or deposit upon any street or public way any substance tending to mar the appearance or to detract from the cleanliness or safety of such street or public way.

Section 63. PIGSTIES. It shall be unlawful for any person to maintain a pigsty slaughterhouse, or tannery within the corporate limits of the city of Garibaldi.

Section 64. OFFENSIVE SUBSTANCES, DEPOSIT OF. It shall be unlawful for any person to put any animal carcass or part thereof, or any excrement, or any putrid, nauseous, decaying, deleterious, or offensive substances in any stream, well, spring, brook, ditch, pond, or other inland waters within the corporate limits of the city of Garibaldi, or to place any such substances in such position that highwater or natural seepage will carry the same into any such waters.

Section 65. SURFACE WATERS, DRAINAGE. It shall be unlawful for the owner, lessee, or occupant of any building or structure to suffer or permit rain water, ice, or snow to fall from any such building or structure upon any street or sidewalk or to flow across any such sidewalk, and every such owner, lessee, or occupant shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage system sufficient to carry to the street any overflow water accumulating on the roof or about such building.

Section 66. ICE AND SNOW, REMOVAL. It shall be the duty of the owner, lessee, occupant, or person having the control or custody of any premises or unimproved property to remove all snow or ice which has fallen or has accumulated upon the sidewalks abutting upon such premises or property within two hours after such snow or ice has ceased to fall thereon provided, however, that if such snow is falling or such ice accumulating after the hour of 6 p.m., the same shall be removed within two hours after it shall cease to fall or within two hours after 7 a.m. on the next succeeding day, as the case may be.

Section 67. ATTRACTIVE NUISANCES. It shall be unlawful for any owner, lessee, occupant, or any person having control or custody or management of any premises to suffer or permit to remain unguarded upon such premises any machinery, equipment, or other device having the characteristics of an attractive nuisance or which is liable to attract children. It shall further be unlawful for any such owner, lessee, occupant, or person having control or custody or management of any such premises to suffer or permit to remain unguarded upon such premises any pit, quarry, cistern, well, or other excavation.

Section 68. (NOISES) UNNECESSARY. It shall be unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any loud, disturbing, or unnecessary noise in the city of Garibaldi. The following acts are declared to be violations of this section, but such enumerations shall not be deemed to be exclusive:

- (a) The keeping of any animal which by frequent or loud continued noise shall disturb the comfort and repose of any person in the vicinity.
- (b) The use of any automobile, motorcycle, streetcar, or other vehicle, any engine, stationary or moving instrument, device, or thing so out of repair, so loaded, or operated in such manner as to create loud or unnecessary grating, grinding, rattling, or other noises.
- (c) The sounding of any horn or signal device on any automobile, motorcycle, streetcar, or other vehicle on any street or public place of the city, except as a necessary warning of danger to property or person.

- (d) The use of any mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled.
- (e) The erection, including excavation, demolition, alteration, or repair of any building, other than between the hours of 7 a.m. and 6 p.m., except upon special permit granted by the common council.
- (f) The use of any gong or siren upon any vehicle other than police, fire, or other emergency vehicle.
- (g) The operation of any gasoline engine without having the same equipped with and using thereupon a muffler.
- (h) The use of a "muffler cutout" on any motor vehicle upon any street.
- (i) The use or operation of any automatic or electric piano, phonograph, radio, loud-speaker, or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided, however, that upon application to the common council permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, or general entertainment.
- (j) The conducting, operating, or maintaining of any garage within 100 feet of any building used as a private residence, apartment house, rooming house, or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of 11 p.m. and 7 a.m.

The foregoing acts are declared nuisances and any person violating any of the provisions of this section shall be deemed guilty of an offense.

Section 69. POLICE OFFICERS, RESISTING. It shall be unlawful for any person to hinder, delay, obstruct, or resist any peace officer who is acting in the performance of his duties, and it shall be the duty of every person to render assistance to such peace officer when so requested. It shall further be unlawful to aid, abet, or assist the escape of any person in the custody of any such officer, whether such escape be successfully effected or not.

Section 70. POLICE OFFICERS, IMPERSONATING. It shall be unlawful for any person to impersonate, falsely assume to be, or pretend to be an official peace officer of the city of Garibaldi.

Section 71. ESCAPE FROM CUSTODY. It shall be unlawful for any person incarcerated in the city jail to escape or attempt to escape from such custody.

Section 72. ESCAPE, AIDING. It shall be unlawful for any person to aid, abet, or assist the escape of any person confined in the city jail, whether such person so confined be in custody pending hearing or serving sentence upon conviction, and whether such escape be successfully effected or not.

Section 73. LIQUOR, DELIVERY TO PRISONERS. It shall be unlawful for any person to deliver, by any method whatsoever, any intoxicating liquor or narcotic drug to any person confined in the city jail or to attempt to convey or deliver to any such person any article without the permission and consent of the officer in charge.

Section 74. PRISONERS, WORKING. In all cases of conviction for any of the offenses mentioned in this ordinance, where the penalty fixed by the court is confinement in the city jail for any term, the court additionally may order that such convicted person, during the term of his imprisonment, labor upon the streets or public works of the city under the direction of the proper authorities.

Section 75. OFFENSES, ATTEMPT TO COMMIT. Any person who shall attempt to commit any of the offenses mentioned in this ordinance, but who for any reason is prevented from consummating such Act, shall be deemed guilty of an offense.

Section 76. FINES, PAYMENT ENFORCED. If any person shall neglect or refuse to pay any fine imposed upon conviction of a violation of this ordinance he shall be confined to the city jail one day for each \$2 of such fine.

Section 77. PENALTIES. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not less than \$ 1.00 nor more than \$ 500.00, or by imprisonment in the city jail for a term of not less than 1 days nor more than 90 days, or both such fine and imprisonment, in the discretion of the court.

Section 78. CONSTITUTIONALITY. If any clause, sentence, paragraph, section or portion of this ordinance for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this ordinance but shall be confined in its operation to the clause, sentence, paragraph, section or portion of this ordinance directly involved in the controversy in which such judgment is rendered.

Passed by the common council June, 10th, 1946.

Signed and Approved by the mayor June, 10th, 1946.

Erwin S. Fessler

Attest:

B. J. Spencer
Recorder