

GARIBALDI ORDINANCES

ORDINANCE NO. 101

*Repealed by  
or 107*

AN ORDINANCE AMENDING GARIBALDI ORDINANCE NO. 92 WHICH ESTABLISHES ZONING REGULATIONS FOR THE CITY OF GARIBALDI.

Whereas, the City Council has created a City Planning Commission and the existing zoning ordinance creates no authority for the planning commission; and

Whereas, the City Council desires that the Planning Commission have authority in zoning matters and land planning matters within the City of Garibaldi; and

THEREFORE, the City of Garibaldi does ordain as follows:

Garibaldi Ordinance No. 92 is amended to read as follows:

Section 1. Section 1.020 is amended to read as follows:

- 3(3A) "Commission" means the City Planning Commission.
- (3B) "Council" means the City Council.

Section 2. Section 4.090:2 is amended to read as follows:

2. Complaint Procedures. The Commission shall review home occupations upon receipt of two written complaints from two separate households located within 250 feet of the boundary of the affected property, or a complaint from the city building inspector. Complaints shall set forth the nature of the objection. The complaints shall be considered by the Commission at a public hearing. The hearing procedure shall be the same as outlined in Article 11.

Section 3. Section 4.090:3 is amended to read as follows:

3. Action by the Commission. The Commission upon hearing the evidence may:

- A. Approve the use as it exists.
- B. Require the use to be terminated.
- C. Impose appropriate restrictions, such as limiting hours of operation, establishing a phasing out of the use, or other measures insuring compatibility with the neighborhood.

The determination of the Commission becomes final 10 days after the date of decision unless appealed in accordance with Article 11.

Section 4. Section 5.020 is amended to read as follows:

Section 5.020. Authorization of Similar Uses. The Commission may permit in a particular zone a use not listed in this ordinance, provided that the use is of the same general type as the uses permitted there by this ordinance.

Section 5. Section 6.010 is amended to read as follows:

Section 6.010. Authorization To Grant Or Deny Conditional Uses. Conditional uses listed in this ordinance may be permitted, enlarged or otherwise altered upon authorization by the Commission in accordance with the standards and procedures set forth in Section 6.010 through 6.030. In permitting a conditional use or the modification of a conditional use, the Commission may impose any additional conditions which the Commission considers necessary to protect the best interests of the surrounding property or the city as a whole. These conditions may include increasing the required lot size or yard dimensions, limiting the height of buildings, controlling the location and number of offstreet parking and loading spaces required, limiting the number, size and location of signs, and requiring diking, fencing screening, landscaping or other facilities to protect adjacent property owners. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements dealing with conditional uses.

Section 6. Section 6.030:1 is amended to read as follows:

1. A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the City Recorder, using a form prescribed pursuant to Section 11.040. The Commission may require other drawings of information necessary to an understanding of the proposed use and its relationship to surrounding properties.

Section 7. Section 6.030:2D is amended to read as follows:

D. Within 5 days, the Recorder shall notify the applicant of the decision of the Commission. The decision of the Commission may be appealed to the City Council as provided in Article 11.

Section 8. Section 6.030:2E is amended to read as follows:

E. The applicant shall attach a copy of the decision of the Commission to the building permit application.

Section 9. Section 7.030:2 is amended to read as follows:

2. If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this ordinance unless the Commission determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced.

Section 10. Section 7.060 is amended to read as follows:

Section 7.060. Alterations Necessary to Comply with Other Laws Alterations of nonconformity uses may be allowed when the Commission determines that alterations are necessary to comply with other city, state or federal requirements.

Section 11. Section 7.070 is amended to read as follows:

Section 7.070. Public Hearing Required. Alteration, restoration, replacement or resumption of a nonconforming use shall be done only after a public hearing and a determination by the Commission that the action is not detrimental to the city or the surrounding neighborhood. Decisions of the Commission may be appealed to the City Council as provided in Article 11.

Section 12. Section 8.060 is amended to read as follows:

Section 8.060. Planning Commission Review.

1. The Commission shall review the application and investigation report.

2. The Commission shall determine whether the evidence supports a finding that the required criteria have been met, and shall approve, approve with conditions, or deny that application accordingly. Their approval or denial shall be in writing. Variance decisions by the Commission shall become final after an elapsed period of ten days from the date of the decision, unless appealed to the City Council in accordance with Article 11.

3. The Commission decisions with findings shall be sent by mail to the applicant with five working days of the date of the action. If the decision is to deny, the same mail shall include notice of the manner in which an appeal of the decision may be made.

4. An application of a variance which is not acted upon by the Commission within 60 days from the receipt of application may be deemed denied and may be appealed in the manner provided for appeals.

Section 13. Section 8.070 is eliminated.

Section 14. Section 8.110 is amended to read as follows:

Section 8.110. Limitation on Refiling of Application. Applications for which a substantially similar application has been denied shall be heard by the Commission only after a period of six months has elapsed.

Section 15. Section 8.120:4 is amended to read as follows:

Section 8.120.

4. Within five days, the Recorder shall notify the applicant of the decision of the Commission or City Council.

Section 16. Section 9.010 is amended to read as follows:

Section 9.010. Authorization To Initiate Amendments. An amendment to the text of this ordinance or to a zoning map may be initiated by the Commission or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the City Recorder with a filing fee of \$50.

Section 17. Section 9.020 is amended to read as follows:

Section 9.020. Public Hearing On Amendments. The Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the amendment is proposed and shall, within

40 days after the hearing, recommend to the City Council approval or disapproval of the proposed amendment or a modification of the proposed amendment. The City Council shall hold a public hearing on the proposed amendment if recommended by the Commission.

Section 18. Section 9.040 is amended to read as follows:

Section 9.040. Limitation On Re-Applications. No application of a property owner for an amendment to the text of this ordinance or to the zoning map shall be considered by the Commission within one year immediately following a previous denial of such request, except the Commission may permit a new application, if in the opinion of the Commission new evidence or a change of circumstances warrant it.

Section 19. Section 9.050 is amended to read as follows:

Section 9.050. Notification Of Applicants. The City Recorder shall notify an applicant of the action taken by the Commission or the City Council within five days of the final decision. An applicant may appeal to the City Council an adverse decision as provided in Article 11.

Section 20. Section 10.020:1 is amended to read as follows:

Section 10.020:1.

1. Minimum Site Size. Planned unit developments shall be established only on parcels of land which are suitable for the proposed development and are determined by the Commission to be in keeping with the intent of this ordinance.

Section 21. Section 10.020:2 is amended to read as follows:

Section 10.020:2.

2. In all residential developments, or in combination residential commercial developments, area should be devoted to open space. Of this area, 25% of said open space may be utilized privately by individual owners or users of the PUD; however, 75% of this area should be common or shared open space. The Commission may increase or decrease the open space requirement depending on the particular site and the needs of the development. In no case should the open space be less than 25% of the site.

Section 22. Section 10.020:5 is amended to read as follows:

Section 10.020:5.

5. Off-Street Parking. Parking spaces shall conform to all provisions of this ordinance, except that the Commission may authorize exceptions where warranted by unusual circumstances.

Section 23. Section 10.020:6 is amended to read as follows:

Section 10.020:6.

6. Signs. All signs of any type within a PUD area are subject to approval of the Commission. They shall consider each sign on its merits based on its aesthetic impact on the area, potential traffic hazards, potential violation of property and privacy rights of adjoining property owners, and need for said sign.

Section 24. Section 10.020:7 is amended to read as follows:

Section 10.020:7.

7. Height Guidelines. The same restrictions shall prevail as permitted outright in the zone in which such development occurs, except that the Commission may allow a variance of heights, where it is determined that surrounding property will not be harmed.

Section 25. Section 10.020:9 is amended to read as follows:

Section 10.020:9

9. Dedication and Maintenance of Facilities. The Commission may, as a condition of approval for a PUD, require that portions of the tract or tracts under consideration be set aside, conveyed or dedicated for the following uses:

A. Recreation facilities: The Commission may require that suitable area for parks or playgrounds be set aside, improved or permanently reserved for the owners, residents, employees or patrons of the PUD.

B. Common Area: Whenever common area is provided, the Commission may require that an association of owners or tenants be created into a nonprofit corporation under the laws of the State of Oregon, which shall adopt such articles of incorporation.

Section 26. Section 10.020:10 is amended to read as follows:

Section 10.020:10.

10. Approvals. The Commission shall submit the preliminary development plan to the fire district, city engineer, county sanitarian, power company and other utilities which will serve the PUD and shall consider their recommendations in regard to approval of the proposal.

Section 27. Section 10.030:1 is amended to read as follows:

Section 10.030:1.

1. The applicant shall submit four copies of the preliminary development plan to the Commission. Applications shall be accompanied by a fee prescribed in Section 11.050 of this ordinance. This plan and any written statements shall contain at least the following information

Section 28. Section 10.030:2 is amended to read as follows:

Section 030:2.

2. The Commission shall consider the preliminary development plan at a public hearing at which time they shall determine whether the proposal conforms to city ordinances. In addition, in considering the plan, the Commission shall seek to determine that: (A-F remain unchanged.)

Section 29. Section 10.030:3 is amended to read as follows:

Section 10.030:3.

3. The Commission shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied, and, if not, whether they can be satisfied with further plan revision. Commission action can be appealed to the City Council pursuant to Article 11.

Section 30. Section 10.030:4 is amended to read as follows:

Section 10.030:4.

4. Following this hearing, the applicant may proceed with his request for final approval of the planned development.

Section 31. Section 10.040:1 is amended to read as follows:

Section 10.040:1

1. Within one year after preliminary plan approval or modified approval of a preliminary development plan, the applicant shall file a final plan for the entire development or, when submission in stages has been authorized, for the first unit of the PUD, with the Commission. The final plan shall conform in all respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan plus the following: (A-I remain unchanged.)

Section 32. Section 10.040:2 is amended to read as follows:

Section 10.040:2.

2. Upon receipt of the final development plan, the Commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved preliminary development plan, or requires such changes in the proposed development or impose such conditions of approval as are, in its judgment, necessary to insure conformity to the applicable criteria and standards. In so doing, the Commission may permit the applicant to revise the plan and resubmit it as a final development plan within 30 days.

Section 33. Section 10.040:3 is amended to read as follows:

Section 10.040:3.

3. After final approval by the Commission, the PUD application will be considered approved unless appealed to the City Council pursuant to Article 11.

Section 34. Section 10.050 entitled Mapping is hereby deleted.

Section 35. Section 10.050 is amended to read as follows:

Section 10.050. Adherence to Approved Plan and Modification Thereof.

1. Building permits in a PUD shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Commission for their approval.

2. A performance bond may be required, in an amount to be determined by the Commission, to insure that a development proposal is completed as approved and within the time limits agreed to.

3. The developer shall show to the satisfaction of the Commission that the proposal will be carried out in such a way that no significant damage will be done to the lakes, streams, beaches or wetlands in the City. Special attention will be paid to the impact of the PUD on slide prone hillsides to insure that damage will not be caused to surrounding property.

Section 36. Section 11.030 is amended to read as follows.

Section 11.030. Administrative Appeals.

1. An appeal from a ruling of a city administrative officer regarding a requirement of this ordinance may be made only to the Commission, subject to later review by the City Council in accordance with Section (11.035)

2. An action or ruling of a city administrative officer pursuant to this ordinance may be appealed to the Commission within 15 days after the officer has rendered the decision. Written notice of the appeal shall be filed with the City Recorder. If the appeal is not filed within the 15 day period, the decision shall be final. If the appeal is filed, the Commission shall receive a report and recommendation thereon from the official and shall hold a public hearing on the appeal.

3. The Commission shall examine the report and may receive any new evidence or information pertaining to the matter.

Section 37. Section 11.035 shall read as follows:

Section 11.035. Appeals.

1. An appeal may be made to the City Council by an interested person or city official. Such appeal shall be filed in written form with the City Recorder within 10 days of the date of the Commission action, stating how an error was made in the application of the requirements of this section.

2. Within 60 days of the filing of the notice of appeal, the City Council shall hold a public hearing. Notice of the hearing shall be made at least 6 days prior to the hearing. Prior to the public hearing, the Commission secretary shall forward to the Council a copy of the application, all pertinent data filed with it, and the Commission's decision with findings if applicable.

3. In reversing a decision, the City Council shall indicate by order the basis for its decision, including any necessary findings.

4. An appeal may not be resubmitted for a period of six months.

Section 38. Section 11.060 is amended to read as follows:

Section 11.060. Public Hearings. When the Commission or the City Council is required to hold a public hearing, notice of the hearing shall be given in the following manner: (1,2,3 remain unchanged.)

Section 39. Section 11.070 is amended to read as follows:

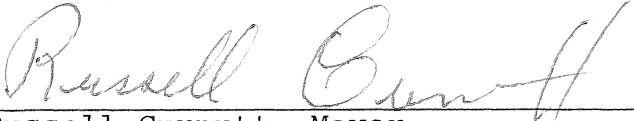
Section 11.070. Recess of Hearing. The Commission or the City Council may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

Section 40. Section 11.080 is amended to read as follows:

Section 11.080. Authorization of Similar Uses. The Commission may permit in a particular zone a use not listed in the ordinance, provided the use is of the same general type as the uses permitted there by this ordinance. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone.

Section 41. Clarification of Amendments. The foregoing amendments leave unchanged any section or subsection not specifically mentioned.

Passed by The City Council this 10th day of August,  
1981. and approved by the Mayor this        day of August,  
1981.

  
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Russell Curnutt, Mayor

ATTEST:

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Betty Osborne, City Recorder