

ORDINANCE NO. 338

AN ORDINANCE OF THE CITY OF SISTERS, OREGON, AMENDING CHAPTER 5.24 OF THE SISTERS MUNICIPAL CODE, TRANSIENT MERCHANTS, AND REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES INCONSISTENT HEREWITH AND DECLARING AN EMERGENCY.

WHEREAS, the City of Sisters has adopted a Transient Merchant Ordinance, which is codified in the Sisters Municipal Code Chapter 5.24; and

WHEREAS, the City Council for the City of Sisters to help promote activities within the City that are of benefit to the City and the citizens therein;

NOW, THEREFORE, THE CITY OF SISTERS ORDAINS AS FOLLOWS:
(words in brackets are deleted and words underlined and italicized are added):

SECTION 1: Chapter 5.24 of the Sisters Municipal Code is amended as follows:

5.24.110 Definition. Transient merchant is a person who either carries goods, wares or merchandise from area to area (or city to city), selling or offering the same for retail sale; or who offers goods, wares, merchandise or services from a vehicle, trailer or cart, temporary apparatus, temporary location, or door to door without making the business permanent and continuous in the City. (Ord 295, 1999.)

5.24.115 License Required.

(1) No person or other entity shall engage, conduct or participate in the business of a transient merchant in the City without first obtaining a temporary business license, which shall be available during regular business hours.

(2) The license fee for a transient merchant shall be [\$40.00 per day, per location, payable in advance of licensing, except if paid on the day of the event the fee will be \$60.00] set by Council resolution. The City Administrator or City Council shall have the sole discretion to waive or reduce the fee for any entity when the City Administrator or City Council finds that the purpose for the activities of the entity will benefit the City. Application for a license shall be made to the City Administrator in writing and shall contain the following information:

(a) The name, permanent address and telephone number of the person or entity to

- whom the license will be issued;
- (b) The nature of the business to be conducted;
- (c) The days for which the license is to be granted;
- (d) The location where the business will be conducted and the written consent of the property owner;
- (e) Copies of all required state and county certificates and licenses.

(3) Upon receipt of the completed application and payment of the license fee the City [Recorder] *Administrator or designee* shall issue the license, subject to any conditions necessary to protect the health, peace and safety of the residents of Sisters.

- (4) The permit shall not be granted if any of the following exist:
 - (a) Any false or misleading information is supplied in the application or any information requested is omitted from the application.
 - (b) The applicant has been convicted of a crime involving unlawful trade practices as defined by ORS 646.608, fraud or moral turpitude within the last five years.
 - (c) The applicant has been the subject of an unreasonable number of consumer complaints in the last five years.
 - (d) The applicant has been the subject of an unlawful trade practices suit or investigation under ORS Chapter 646 which resulted in civil penalties assessed against him or her.
 - (e) The applicant's proposed actual business operation presents a danger to the public health, safety, morals or general welfare which cannot be alleviated through the imposition of a condition of operation.
 - (g) The applicant is unable to provide proof of compliance with all relevant federal and state bonding and licensing requirements.
 - (h) The applicant has failed to comply with any other applicable provision of this code relating to the proposed conduct of business. (Ord 295, 1999.)

(5) *Exemption. An exemption shall be granted for the permit fee if the transient merchant activity is held in conjunction with a special event for which the sponsoring organization has already secured a special event permit from the City.*

5.24.120 Conditions of Permit. Conditions of operation that are necessary to protect the public health, safety, morals and general welfare may be imposed on a permit. A permit also shall be subject to the following conditions:

- (1) The permit shall be valid for the period indicated.
- (2) The permit is not transferable.

(3) Conduct of the permittee's business operations shall conform with statements made in the application and with any special conditions of operation imposed on the permit.

(4) The permittee shall carry and conspicuously display the permit during all hours of business operation.

(5) The permittee shall abide by all applicable city, state and federal laws, rules and regulations. (Ord 295, 1999.)

5.24.125 Criteria for Conduct of Business. All permitted transient merchants activities shall comply with the following criteria:

(1) In all Commercial Zones, all sales shall be conducted outside of the public right of way, including the sidewalks, and shall not cause the flow of pedestrian traffic to become obstructed.

(2) All signage and display of merchandise shall comply with the requirements of the Sisters City Code.

(3) Any time the merchant is conducting business, it shall pick up any paper, cardboard, wood, or plastic containers, wrappers, or any litter resulting from its business that is deposited by any person within 25 feet of the merchant's location.

(4) No transient merchant shall make any loud or unreasonable noise of any kind by vocalizing or otherwise for the purpose of advertising or attracting attention to the merchant's wares. (Ord 295, 1999.)

5.24.130 Investigation of Complaints. On receiving four signed written complaints from four separate persons against a street vendor, the City Administrator or designee will call for a review of the licenses issued. The Administrator may revoke or suspend one or more licenses issued. (Ord 295, 1999.)

5.24.135 Door to Door Solicitation. (1) The practice of transient merchants going in and upon private residential property selling merchandise or services shall be subject to the following regulations:

- (a) If a residence has a posted sign advising that solicitation is not welcome or is unwanted, solicitation at such residence shall be prohibited.
- (b) Solicitation shall only occur between the hours of 10:00 a.m. and 8:00 p.m. There shall be no solicitation allowed on Sundays.
- (c) Any individual, business, political, charitable, religious, patriotic, or

philanthropic group desiring to sell merchandise or services on a door-to-door basis within the City limits of Sisters shall first obtain a permit from the City as described in Section 5.24.140. (Ord 295, 1999.)

5.24.140 Permits. The permit application required for door-to-door solicitation shall be perceived on a form provided by the City Administrator. The following information shall be given on the form:

- (a) Name and purpose of the cause for which the permit is sought and names and addresses of the solicitors.
- (b) Name and addresses of the officers and directors of the organizations.
- (c) Whether any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.
- (d) The period during which solicitation is to be carried on.
- (e) The permit shall be renewed annually on a calendar year basis. (Ord 295, 1999.)

5.24.145 Revocation.

(1) The license issued may be revoked by the City Administrator or designee at any time for violation of the Sisters City Code, providing false information on its application or for failure to comply with the terms or conditions of the license. Notice of the revocation shall be delivered to the merchant setting forth in writing the grounds for revocation. Upon receipt of the notice, the merchant shall immediately cease operation. (Ord 295, 1999.)

5.24.150 Violations. Violation of any of the provisions of this chapter is a Class A Infraction, and upon conviction may be fined not less than [\$100] \$300 nor more than \$500 for each violation. The sale of each article by any transient merchant without a license shall be deemed a separate offense under this chapter and a separate violation of this section. (Ord 295, 1999.)

5.24.155 Appeal. Any transient merchant aggrieved by the denial or revocation of a license or any action taken under this chapter shall have the right to appeal to the Sisters City Council. Such appeal shall be made by filing a written statement with the City Administrator within 5 days of the action complained of, setting forth the grounds for appeal. The Council shall set a time and place for hearing within thirty days of receipt of the statement. Written notice of the hearing shall be sent to the appellant at the address provided on the application. (Ord 295, 1999.)

SECTION 2: It is hereby determined and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the peace, general welfare and safety of the City of Sisters and, therefore, an emergency is hereby declared to exist and this

Ordinance shall become effective on the date of passage.

PASSED by the Common Council of the City of Sisters this 25th day of September, 2003,
and APPROVED by the Mayor of the City of Sisters.



M. David Elliott, Mayor

ATTEST:



Eileen F. Stein, City Administrator