

ORDINANCE BILL NO. 13 FOR 1991

ORDINANCE NO. 1037

AN ORDINANCE DEFINING, REGULATING AND REGISTERING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS OF THE CITY OF SWEET HOME; REPEALING ORDINANCES 425 AND 978 AND DECLARING AN EMERGENCY.

THE CITY OF SWEET HOME DOES ORDAIN AS FOLLOWS:

Section 1. Registration Required. No person may engage in the business of a peddler, solicitor or transient merchant, as defined in this ordinance, without first registering as provided in this ordinance. Each employee or member of an organization so engaged shall be registered individually as provided herein. The registration can be waived for special events by prior approval of City Council upon set conditions that will consider public safety, traffic, business experience and responsibility and other matters that relate to the public.

Section 2. Definitions. When used in this ordinance, the following terms shall have the following meanings:

A. The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, copartnership or society or any other organization.

B. The word "peddler" as used herein shall include any person, whether a resident of the City of Sweet Home or not, traveling by foot, or any type of conveyance, from place to place, conveying anything of value, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this ordinance shall be deemed a peddler subject to the provisions of this ordinance. The word "peddler" shall include the words "hawker and huckster."

C. "Canvasser" or "solicitor" shall include any person, whether a resident of the City of Sweet Home or not, who goes from house to house, place to place, soliciting or taking or attempting to take orders for things of value, including wares, merchandise, magazines, books, periodicals or personal property of any nature whatsoever for future

delivery, or for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders. Such definition shall include any person who, for himself, or for any other person, hires, leases, uses or occupies any place within the city for the primary purpose of exhibiting samples and taking orders for future delivery.

D. "Transient merchant" shall include any person, firm or corporation whether as owner, agent, consignee or employee, whether a resident of the city of Sweet Home or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said city, and who, in furtherance of such purposes, occupies any place within the city for the exhibition and sale of such goods, wares, and merchandise. The person so engaged shall not be relieved from complying with the provisions of this ordinance merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local merchant.

Section 3. Exclusions. The terms of this ordinance shall not be held to include persons selling personal property at wholesale to dealers, persons who sell or deliver goods and/or services to businesses which regularly handle or use said goods and/or services in their business, or persons who have the consent of the occupant of the real property to enter on it before they come to the real property as part of a routine or regular route connected with persons at that real property. Nothing contained in this ordinance shall be held to prohibit any sale required by statute or by order of any court or to prevent any person conducting a bona fide auction sale pursuant to law. The terms of this ordinance shall not be held to include the acts of persons soliciting money, donations of money, or property or financial assistance of any kind or selling or distributing any item or literature or merchandise for a fee upon the streets, in business buildings, by house-to-house canvass, or in public places for religious purposes, when the solicitations are made by a bona fide member of organizations sponsoring such canvasses; professional agents in the employ of such organizations shall be included under and be subject to the provisions of this ordinance.

Section 4. Registration Form.

A. A person registering as a peddler, solicitor or transient merchant shall file with the city a form to be provided by the city that shall give the following information:

(a) Name, description and Driver's License Number of the registrar;

(b) Address and phone number, both legal and local of registrar;

(c) Name, Address and phone number, both legal and local of employer/sponsor, if any, and relationship to same.

(d) The names of at least two reliable property owners in Linn County who will certify as to the registrar's good character and business responsibility; or in lieu of the names of references, any other available evidence as to the good character and business responsibility of the registrar.

(e) A statement as to whether or not the registrar has been convicted of any crime, including felony or misdemeanor, the nature of the offense and the punishment or penalty assessed therefor, within the last five (5) years, if the convictions and sentencing are themselves public records.

(f) The last Cities, not to exceed three, where registrar carried on business immediately preceding date of registration and the addresses from which such business was so conducted.

(g) Description of event or business with proposed location and length of time in Sweet Home.

(h) If a vehicle is to be used, a description of the same, together with license number or other means of identification.

(i) Signature of registrar verifying that all the information on the form is true.

B. The form shall state thereon that it is a public record and available for public inspection.

C. Each form shall contain in substance the following wording in addition to any other relevant questions or information thereon: The City of Sweet Home does not endorse or recommend this person to anyone. This registration form is on file at City Hall for public inspection. No background investigation need be conducted with the registration.

Section 5 Registration Term. A person must register for each event or business enterprise and at least once a year and the privilege to conduct the event or business shall not start until the lapse of 4 hours from

time of registration.

Section 6. Exhibit of Registration Form. A registrar including any door to door peddler, solicitor or transient merchant shall exhibit his registration form on the request of any citizen.

Section 7. Duty of Police to Enforce. A police officer may require a peddler, solicitor or transient merchant, who is not known by the officer to produce his registration form. The officer shall enforce the provisions of this ordinance against any person found to be violating same.

Section 8. Public Property Location. No person shall have any exclusive right to any location on the public sidewalk, street, or other public area nor shall any be permitted a stationary location, nor shall any be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this ordinance, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Section 9. Loud Noises and Speaking Device. No person, nor any person in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any wares, goods, or services which the person proposes to sell or offer to the public.

Section 10. Denial or Revocation of Registration. The privilege to conduct the event or business under the provisions of this ordinance may be denied or revoked by the Police Chief including a police officer acting as chief of police after notice for any of the following causes:

(a) Fraud, misrepresentation or false statement contained in the registration form;

(b) Fraud, misrepresentation or false statement made in the course of carrying on the event or business;

(c) A violation of this ordinance;

(d) Conviction within the last five years of any crime or misdemeanor involving moral turpitude or other characteristics that would relate directly to the safety (either economic or physical) of the public by the person conducting or participating in the event or business;

(e) Conducting the event or business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

Section 11. Appeal. Any person aggrieved by the action of the Police Chief in denying or revoking the privilege to conduct the event or business shall have the right to appeal to the City Council of the City of Sweet Home. The registrar shall file with the Council a written statement setting forth fully the grounds for the appeal within 14 days after the day the notice is delivered by the City to the registrar indicating disapproval or revocation.

The decision and order of the Council on such appeal shall be final and conclusive.

Section 12. Reapplication. No registrar who has been denied or revoked shall make further application until a period of at least six months shall have elapsed since the last previous denial or revocation unless the registrar can show that the reason for the denial or revocation has been corrected.

Section 13. Penalty. Violation of this ordinance constitutes an infraction and may be prosecuted under the provisions of Ordinance Number 876 and any amendments thereto.

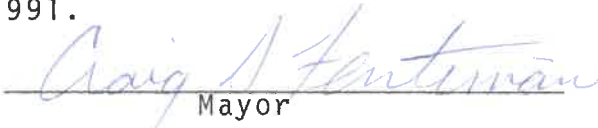
Section 14. Repealer. Ordinance Nos. 425 and 978 are hereby repealed.

Section 15. Severability. The sections, subsections, or parts thereof, of this ordinance are severable. The invalidity of any section, subsection or part thereof shall not affect the validity of the remaining sections, subsections or parts thereof.

Sections 16 and 17 are left for expansion.

Section 18. Emergency Clause. It being deemed by the City Council of Sweet Home, Oregon that an emergency exist, this ordinance shall be in force and effect from and after its passage and approval.

PASSED by the Council and approved by the Mayor this
26th day of November, 1991.



Mayor

ATTEST:



City Manager and Ex-Officio
City Recorder