

ORDINANCE NO. 10-1014

AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING CHAPTER 5.04 OF THE OREGON CITY MUNICIPAL CODE RELATING TO BUSINESS LICENSES.

WHEREAS, Oregon City requires all businesses conducting business within the City of Oregon City to obtain a business; and

WHEREAS, the Oregon City Commission wishes to amend the business license provisions to provide for a more effective business licensing procedure and to encourage business development in the City of Oregon City; and

WHEREAS, in June 2010, an employee task force was formed to perform a comprehensive review and assessment of the City's business licensing process and bring forward findings and recommendations; and

WHEREAS, the goals and objectives of this business license review process included enhancing customer service, improving efficiencies, assuring process and procedural compliance with Oregon City Municipal Code and maximizing revenue generation potential; and

WHEREAS, this process resulted in a Business Licensing Process Review report containing a summary of the review process, and makes twenty-four (24) specific recommendations for the City to consider implementing, and

WHEREAS, the City Commission reviewed this report at its work session on December 7, 2010; and

WHEREAS, this ordinance amending Oregon City Municipal Code is based on the recommendations contained in the Business Licensing Process Review report.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Section 1. Chapter 10.16 of the Oregon City Municipal Code is hereby amended to provide as follows:

Chapter 5.04 - BUSINESS LICENSES

5.04.010 - Purpose.

5.04.020 - Definitions.

5.04.030 - Exemptions.

5.04.040 - Disposition of proceeds.

5.04.050 - Presumption of business.

5.04.060 - License—Required.

5.04.070 - License—Application—Proration of fees.

5.04.080 - Examination of business premises.

5.04.090 - License—Suspension or issuance—Public hearing.

5.04.100 - License—Suspension or revocation—Effect.

5.04.110 - Rehearing.
5.04.120 - License—Issuance.
5.04.130 - Effect of license issuance.
5.04.140 - Separate license for separate locations.
5.04.150 - License—Display.
5.04.160 - License—Computation of fees.
5.04.170 - License—Transfer.
5.04.180 - Street sales prohibited.

5.04.010 - Purpose.

In order that business, manufacturing, pursuits, professions and trade be carried on and conducted in the city in a profitable and peaceful manner, it is necessary that the same be regulated and safeguarded.

5.04.020 - Definitions.

As used in this title, the following words and terms shall have the meanings herein ascribed to them, unless the content makes such meaning repugnant thereto:

"Business" means any trade, profession, occupation or pursuit of every kind conducted in the city for gain.

"City Manager" means the Oregon City Manager or a person or persons designated by the City Manager to act on behalf of the city for purposes of this ordinance.

"Food stuffs" means any article of food intended to be sold or used for human consumption, and shall also include tobacco in all forms, and beverages.

"House" means and includes hotels, rooming and lodging houses where rooms are equipped for sleeping purposes and are rented for periods of less than thirty days.

"Merchant patrolman" means any person who, for hire or reward, as a business and as an independent contractor guards or protects persons or other persons' property, or patrols streets, districts or territory for such purposes and includes any person who is employed by another as a guard or patrolman for any such person. This provision does not apply to an individual who as an employee guards the property of only one employer.

"Person" means any person, firm, co-partnership, association, joint venture, syndicate, society or domestic or foreign corporation, and includes fraternal organizations, clubs, lodges and similar places or establishments employing full-time or part-time employees in any business for gain which is not specifically exempt from the provisions of this chapter by the Constitution, laws or regulations of the United States or of the state.

"Retail" means any sale direct to the consumer or user for consumption or use and not for resale purposes.

"Street" means any street, alley, avenue, highway, court or land in the city.

"Transient merchant" means every person engaged or participating in a temporary or transient business of selling or exhibiting for sale goods, wares or merchandise in any room, building or structure, whether he be associated with any local dealer or not, unless such temporary or transient business is conducted upon the premises regularly occupied by the local dealer.

"Watchman" means any person who, for hire or reward, as a business and as an independent contractor guards or protects persons or property, or patrols streets, districts or territories for such purposes.

5.04.030 - Exemptions.

There shall be exempt from the requirements of this chapter the following:

A.

Any person whose income is based solely on an hourly, daily, weekly, monthly or annual wage;

B.

Any person conducting a garage sale or other isolated sale not on a continuing basis where the merchandise is composed of the real or personal property of the seller not acquired for the purpose of resale.

5.04.040 - Disposition of proceeds.

All monies received from licenses issued hereunder shall be deposited in the general fund, and dedicated after payment of costs, to economic development and administration.

5.04.050 - Presumption of business.

Any person that advertises or otherwise holds himself out to the public as engaged in any business, profession, trade or calling for which a license is required, shall be conclusively presumed as holding himself out to the public as so engaged, and shall pay such license fee as required by this chapter.

5.04.060 - License—Required.

No person shall carry on any business within the city without first obtaining a license therefor and without complying with the provisions of this chapter.

5.04.070 - License-Application—Proration of fees.

A.

Application for the licenses required by this chapter shall be made to the city upon forms provided by the City Manager on or before the first day of January of each year for which a license is required.

B.

Any new business which is not in operation on or before the first day of the license year and which desires to conduct business within the city shall make application for the license required by this chapter to the city before starting a business. If the application is received on or before

June 30, the full license fee is required. An application received on or after July 1, will be charged one half the fee.

C.

License fees not paid within thirty days of the required application date shall be deemed delinquent. A twenty-five dollar collection charge is imposed for delinquent fees. An additional collection charge equal to ten percent of the original fee is imposed for each month or portion thereof that the fees remain delinquent. The city manager shall have authority to waive payment of collection fees under circumstances where imposition thereof would create an injustice or unreasonable hardship.

5.04.080 - Examination of business premises.

A.

The chief of police, chief of the fire department, city engineer, the code compliance officer and/or their agents and subordinates, are directed and empowered to investigate and examine all places of business licensed or subject to license under the terms of this chapter at any time and all reasonable times in accordance with applicable law for the purpose of determining whether such place of business is safe, sanitary and suitable for the business so licensed or for which application for license is made.

B.

In the event it is determined by such officers or their agents that any such place of business is dangerous to public health, safety, welfare or is likely to become or is at that time a menace or public nuisance, the City Manager shall send by certified mail to the concerned business, notification of a hearing to be held before either the Oregon City Municipal Court or the Oregon City Code Hearings Office. The purpose of the hearing shall be to determine whether the concerned business shall be permitted to receive a city business license, or if the concerned business had previously been issued a city business license, whether such license should be suspended or revoked.

C.

The notification to the concerned business shall set forth the time and place of the hearing and will cite specific incidents that constitute the basis for the determination by the chief of police, chief of the fire department, city engineer, code compliance officer or their subordinates, that the concerned business is dangerous to either public health, safety, welfare or is likely to become or is at the present time a public menace or nuisance.

5.04.090 - License—Suspension or issuance—Public hearing.

At the hearing on the question of whether the business license should be issued, or if previously issued, whether it should be suspended or revoked, evidence or testimony shall be received and considered only when such evidence or testimony is relevant to the cited incidents or offenses contained in the notification to the concerned business. If a determination is made that all or a portion of the incidents or offenses set out in the notification to the concerned business are supported by substantial evidence, the Municipal Court or Code Hearings Officer shall refuse to issue a business license to the concerned business, or if a business license has previously been entered, shall suspend or revoke such license.

5.04.100 - License—Suspension or revocation—Effect.

If a business license is suspended or revoked, the concerned business shall immediately cease conducting any and all businesses within the city. Any business that continues to conduct business within the city subsequent to a suspension or revocation shall be subject to the same fine and penalties as if such business had never obtained a city business license and was carrying on a business within the city without such a business license.

5.04.110 - License—Issuance.

Upon application being made, any investigation required by this chapter to be made having been satisfactorily completed without a determination by the city officials set out in Section 5.04.080 that the business is dangerous to public health, safety, welfare or is likely to become or now is a public menace or nuisance, or if such a determination has been so made, and if the city commission finds that such determination is not supported by substantial evidence, and if the fee is paid as herein provided, a license shall be issued by the City Manager.

5.04.120 - Effect of license issuance.

The issuing of a license pursuant to this chapter or the collection of a fee or tax shall not permit any person to engage in any unlawful business. The licenses levied and fixed by this chapter shall be in addition to the general ad valorem taxes now or hereafter levied pursuant to law. All ordinances of the city in force on the effective date of the ordinance codified in this chapter pertaining to or covering any business, pursuit or occupation and providing a license or condition for its operation, shall remain in full force and effect. In the event of a conflict or duplication of a license fee, then such other ordinance shall have precedence over the provisions of this chapter to the end that there will be no duplication of license fees for the same business, occupation, profession or pursuit.

5.04.130 - Separate license for separate locations.

If any person operates a business in the city in more than one location, each location shall be considered a separate business for the purpose of this chapter, except the warehouses used in connection with a business shall not be so separately licensed.

5.04.140 - License—Display.

All licenses issued in accordance with this chapter shall be openly displayed in the place of business or kept on the person or on the vehicle of the person licensed and shall be immediately produced and delivered for inspection to the chief of police, the chief of the fire department, the code compliance officer or their designees, when so requested. Failure to comply with the provisions of this section shall be deemed a violation of this chapter.

5.04.150 - License—Computation of fees.

A.

Businesses Having a Fixed Place of Business Within the City. All persons who have a fixed place of business within the city and are subject to being licensed under the provisions of this chapter shall pay a business license fee based upon the following criteria:

1 — 25 individuals \$ 75.00

26 — 50 individuals 150.00
51 — 100 individuals 225.00
101 or more 300.00

The City Manager shall annually review the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the US Department of Labor and adjust the business license fee accordingly.

B.

In arriving at the number of individuals carrying on such business, profession, pursuit or occupation, there shall be considered the proprietors thereof and all individuals regularly employed in such by said proprietors. If such is carried on by a corporation, all officers and employees of the corporation who devote the principal part of their time to such business, profession, pursuit or occupation shall be considered. If any person shall have his principal place of business outside the city, then only such proprietor, officers or employees shall be considered as are actually engaged in such business, profession, pursuit or occupation within the city.

C.

Business License Fees for Persons Having No Fixed Place of Business Within the City. The city commission finds that certain trades, shops, businesses or callings are carried on in the city by persons from regular places of business and by persons who have no regular place of business within the city, that persons with regular places of business in the city pay city ad valorem property taxes upon real and personal property which is used in and belongs to their business and that the persons who do not have regular places of business in the city escape such ad valorem taxation. Both receive the benefit of police and fire protection, public utilities and sidewalks, street lights, health services and other public facilities and services of the city. Therefore, in order that each shall pay as nearly as may be not a discriminatory share, but a share in proportion to benefits received of the burden of supporting such facilities and services of the city, such businesses not operating from regular places of business in the city shall pay one and one-half times the license fee previously designated herein for businesses operating from a fixed place of business within the city.

D.

Additional Fees. Certain businesses generating the need for additional city services should be subject to fees in addition to those imposed for a general business license. These additional fees shall be as follows:

1.

Circuses, carnivals, theatrical and musical productions, festivals and other operations of like nature are subject to a three hundred dollar per event fee.

2.

For the privilege of engaging in the business of displaying or operating the following machines:

a.

Amusement, cigarette, music, pool table/dart board, snack/drink machine, video games are subject to a five-dollar per unit fee. This fee does not apply to any machine owned by the state.

E.

In the event the applicable classification or fees assessable to a business require clarification or interpretation, any interested person may request a determination by the city commission, whose decision shall be final. The city commission shall have the authority to waive all or a portion of established fees to meet the intent and purpose of this chapter.

5.04.160 - License—Transfer.

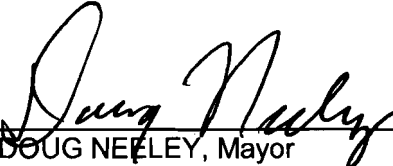
No transfer or assignment of any license issued hereunder shall be valid or permitted, except that whenever any person sells or transfers in has been paid, then the vendee thereof shall not be required to pay the balance of the license year.

5.04.170 - Street sales prohibited.

It is unlawful for any person to sell, or offer to sell, any goods, wares or merchandise on any of the streets, alleys or sidewalks of the city, from any booth, wagon, truck or other vehicle or otherwise within the city before first securing a permit from the city commission. The permit shall be required in addition to any business license and shall prescribe reasonable limits upon the use thereof.

Section 2. Severability is intended throughout and within the provisions of this ordinance. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this ordinance.

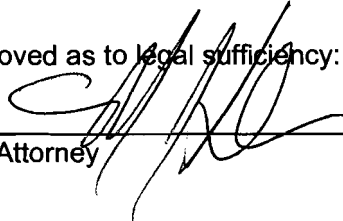
Read for the first time at a regular meeting of the City Commission held on the 15th day of December 2010, and the City Commission finally enacted the foregoing ordinance this 16th day of March 2011.


DOUG NEELEY, Mayor

Attested to this 16th day of March 2011


Nancy Ide, City Recorder

Approved as to legal sufficiency:


City Attorney