

ORDINANCE NO. 16-1001

**AN ORDINANCE AMENDING OREGON CITY MUNICIPAL CODE TITLE 5 – BUSINESS LICENSES AND REGULATIONS**

**WHEREAS**, Oregon City Municipal Code Title 5 governs the regulation and safeguarding of businesses within the boundaries of Oregon City to promote the conduct of business in a profitable and peaceful manner; and

**WHEREAS**, Code amendments are necessary to define the period of time in which an incomplete business license application expires and to establish a provision for appeal in the event of denial, suspension, or revocation of a license; and

**WHEREAS**, Code amendments are necessary to promote clarity and consistency in the adoption of business license fees by ensuring that amounts are adopted by resolution of the City Commission, consistent with fees established in other sections of the Code.

**NOW, THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS:**

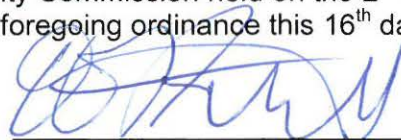
**Section 1.** The City hereby amends the following Chapters and Sections of Oregon City Municipal Code Title 5 entitled Business Licenses and Regulations, attached hereto as “Exhibit A”, with additions shown in underline and deletions shown in ~~strike through~~:

- Chapter 5.04 – Business Licenses
- Chapter 5.12 – Food Establishments
  - Section 5.12.010
- Chapter 5.16 – Secondhand Dealers, Pawnbrokers and Transient Merchants
  - Sections 5.16.040, 5.16.060 and 5.16.070
- Chapter 5.24 – Social Games, Bingo and Lotto
  - Section 5.24.010

**Section 2.** Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**Section 3.** Effectiveness. This Ordinance shall take effect April 15, 2016.

Read for the first time at a regular meeting of the City Commission held on the 2<sup>nd</sup> day of March, 2016, and the City Commission finally enacted the foregoing ordinance this 16<sup>th</sup> day of March, 2016.



DAN HOLLADAY, Mayor

Attested to this 16<sup>th</sup> day of March, 2016,

  
Katie Riggs, City Recorder

Approved as to legal sufficiency:

  
City Attorney

## EXHIBIT A

### Title 5 - BUSINESS LICENSES AND REGULATIONS

#### **Chapter 5.04 - BUSINESS LICENSES**

##### 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.

"Business license manager" means the Oregon City finance director or a person or persons designated by the finance director to act on behalf of the city for purposes of this chapter.

"City" means the city of Oregon City, Oregon.

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

"Commission" or "city commission" means the city commission of Oregon City, Oregon.

"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. Nor shall any person carry on any such business without complying with the provisions of this chapter. No license shall ~~be issued~~ be issued to any business prohibited by local, state or federal law.

#### 5.04.070 - License-Application—~~Proration of fees.~~

- A. Application for the licenses required by this chapter shall be made to the business license manager upon forms provided by the ~~city manager~~ business license 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 business license manager 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. The chief of police, chief of the fire department, city engineer, code compliance officer, other departments and/or their agents and subordinates, are directed and empowered to review license applications for the purpose of determining whether a proposed business license complies with all building, zoning, signage, fire and police and other legal requirements.~~
- D. Incomplete applications will expire if not completed within ninety days. In the event a license application expires, the applicant may reapply for the business license.

5.04.080 - Examination of business premises – Hearing – Suspension or issuance.

- A. The chief of police, chief of the fire department, city engineer, ~~the~~ code compliance officer, other departments 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 public menace or ~~public~~ nuisance, the ~~city manager~~ business license 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, other departments and/or their agents and 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.~~

- ~~D.~~ 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 Oregon City Municipal Court or Oregon City Code Hearings Office 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. The decision of the Oregon City Municipal Court or the Oregon City Code Hearings Office shall be the final decision of the city.
- E. Any investigation having been satisfactorily completed without a determination by the city officials 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 Oregon City Municipal Court or the Oregon City Code Hearings Office finds that such determination is not supported by substantial evidence, a license shall be issued by the business license manager.

~~5.04.090 – License – Denial, suspension or revocation – Appeal.~~

If the issuance of a business license is denied, or if a business license is suspended or revoked, by a reviewing department, for reasons other than a determination set out in Section 5.04.080, the business license manager shall send to the applicant/license holder, by certified mail, written notice of the denial or revocation and of the right to an appeal. The denial or revocation of the license is final unless the applicant/license holder appeals the decision in writing to the city manager within ten business days of receipt of the notification. The city manager shall, within ten business days after the appeal is filed, consider all the evidence in support of or against the action appealed and render a decision either sustaining or reversing the denial, suspension or revocation. The decision of the city manager shall be the final decision of the city.



#### 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 recorder.~~

The business license manager shall review the application and, if it complies with all requirements of this chapter, including being legally allowed to operate in the city and all fees having been paid, the business license manager shall issue a license within thirty days of application being complete.

#### 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~~ other departments and/or their agents and subordinates, 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. Business License Application Fee. All persons, upon submittal of an initial application for a business license, shall pay a non-refundable application fee.
- AB. Annual Business License Fee for Persons Businesses Having a Fixed Place of Business Within the City. All persons, upon the initial application for a business license and upon each subsequent year renewal of a business license, who have a fixed place of business within the city and are subject to being licensed under the provisions of this chapter, shall pay an annual business license fee based upon the number of individuals carrying on such business, profession, pursuit, or occupation, 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.~~

- BC. 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.
- CD. Annual 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 annual license fee ~~previously designated herein~~ for businesses operating from a fixed place of business within the city.
- E. Proration of Business License Fee. If an application is received on or before June 30, the full application fee and the full annual license fee is required. An application received on or after July 1 will be charged the full application fee and one-half the annual license fee.
- DF. 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 machine fee. This fee does not apply to any machine owned by the state.
  3. Manufactured dwelling parks are subject to a per space fee.
- G. License fees not paid within thirty days of the required date shall be deemed delinquent. An initial collection charge is imposed for delinquent fees. An additional collection charge equal to a percentage of the 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.
- H. Amounts for fees included in this chapter shall be established by city commission resolution. Fee amounts may be revised by resolution of the city commission from time to time.
- E I. 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~~ manager, whose decision shall be final. The city ~~commission~~ manager 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.

## Chapter 5.12 - FOOD ESTABLISHMENTS

#### 5.12.010 - License-Required.

It is unlawful for any person to open for business, conduct or maintain or cause to be opened, conducted or maintained, any food establishment in the city without first securing a license therefor as provided by Chapter 5.04. No license shall be issued by the ~~recorder~~ city for a food establishment until the application therefor has been investigated and approved in writing by the chief of police or by the city commission.

## Chapter 5.16 - SECONDHAND DEALERS, PAWNBROKERS AND TRANSIENT MERCHANTS\*

### 5.16.040 - License—Application—Issuance.

- A. Application for a license described in Section 5.16.030 shall be made upon standard forms issued and kept by the city recorder.
- B. Upon application for a secondhand dealer's or pawnbroker's license, the city may issue an appropriate temporary license to be valid for a period of time stated on its face, the period of time not to exceed ninety days. The application or a copy thereof shall be referred to the chief for investigation preparatory to issuance of a final license. Unless the chief finds cause for denial under the grounds listed in Section 5.16.050(A), the license shall be issued within sixty days of a receipt of a completed application. If it appears from such investigation or otherwise that a final license should not be issued to the applicant, the chief shall so determine and shall notify the city manager and the commission to that effect and shall set forth the reason why, in the opinion of the chief, the applicant should be denied a license. The applicant may request a hearing from the determination of the chief to the commission; however, while such appeal is pending, a final license shall not be issued. In such event, the applicant shall be deemed licensed pending a final determination by the commission unless the chief determines in writing that the continued operation of the business presents a danger to public health or safety.
- C. After receiving a report from the chief, the commission may grant a final license to the applicant, or deny the same, based on the grounds set forth in Section 5.16.050(A).
- D. Transient merchants shall not be eligible for a temporary license.

### 5.16.060 - License—Renewal.

Every license issued under Section 5.16.040 shall expire on ~~January 15th~~ December 31<sup>st</sup> of each year and may be renewed upon payment of the fee specified in Section 5.16.070. Such license shall automatically be renewed unless the chief determines there are adequate grounds for revocation or nonrenewal under Section 5.16.050(A). Review of revocation or nonrenewal shall be as provided in the application provisions of Section 5.16.040(B) through (D).

### 5.16.070 - License—Fees.

Every person engaged in, conducting or carrying on a secondhand dealer's business shall:

- A. For initial application of a secondhand dealer's permit, complete and submit all required forms with the city as required by Chapter 5.04 and pay a nonrefundable secondhand dealer's permit initial application fee of ~~three hundred dollars~~. For renewal of a secondhand dealer's permit, pay a nonrefundable secondhand dealer's permit renewal fee of ~~one hundred fifty dollars~~.
- B. If any person operates a business in the city in more than one location, each location shall be considered a separate business, except that the warehouses used in connection with a business shall not be so separately licensed.
- C. Amounts for fees included in this chapter shall be established by city commission resolution. Fee amounts may be revised by resolution of the city commission from time to time.



## Chapter 5.24 - SOCIAL GAMES, BINGO AND LOTTO

### 5.24.010 - License—Fees—Regulations.

Social games, as defined below, shall be permitted to be operated only under the following conditions and regulations:

- A. Social games means a game, other than a lottery, bingo or Monte Carlo events, between players where no house player, house bank or house odds exist and there is no house or operator income from the operation of the social game.
- B. Licensing. Social games may only be conducted by charitable, fraternal or religious organizations. Before conducting any social games, any of the foregoing organizations shall first apply for and secure a license from the city:
  1. To be eligible for a license, the organization must have maintained its operations at an established location in the city for a period of at least one year immediately prior to the date of application.
  2. Any conviction for violation of the gambling laws of the United States or any state within two years of the date of application arising out of operations of the organization shall render the organization ineligible to receive a license.
  3. Licenses shall be issued on an annual basis commencing on January 1.
  4. Subject organizations shall pay an annual social games license fee.
  - 4-5. The annual social games license fees shall be one hundred dollars amount shall be established by city commission resolution. Fee amounts may be revised by resolution of the city commission from time to time.

The license fees are designed to cover costs of license application, investigations and monitoring of compliance with this chapter.

#### C. Rules of Operation.

1. A licensee may conduct social games only during its period of operation, which shall be limited to no more than two consecutive calendar days, during identical eight hour periods per week. The requested period of operation shall be designated by the applicant and included as a condition of the license.
2. In addition to the designated period of operation, a licensee may conduct no more than three additional special events on an annual basis which shall not exceed eight hours in duration per session. The licensee must furnish at least seven days' prior written notice to the chief of police of such special event.
3. No bet, wager or ante or raise thereof shall exceed the sum of two dollars, and no bet or wager may be raised more than three times per hand or game.
4. Blackjack or twenty-one shall be dealt utilizing three decks of cards from a shoe or other device requiring dispensing of the cards from the top of the deck, and all dice games shall utilize a cup for throwing dice.