

# TIGARD MUNICIPAL CODE

## Chapter 5.04 BUSINESS LICENSES.

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The provisions of this chapter shall be known and may be cited as the "Business License Ordinance of the City of Tigard." (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

- 5.04.020 Purpose.

The purpose of this licensing procedure is to assure compliance with the provisions of this chapter and defray the reasonable costs of administration of this chapter by any City Department involved in administration and enforcement activities under this chapter. The fees generated under authority of this chapter shall be in addition to, and not in lieu of, any other license permit fee, charge, tax or fine required under any ordinance of the City.

It is not intended by this chapter to repeal, abrogate or annul or in any way impair or interfere with the existing provisions of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter. Where this chapter imposes a greater restriction on persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this chapter prescribing license fees shall be strictly construed in favor of the applicability of the license fee. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

### 5.04.030 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "Business" means all kinds of vocations, occupations, professions, enterprises,

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establishments, and all kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the City, including home occupations.

2. A person "engages in business" within the meaning of this chapter when soliciting orders for future delivery, selling or offering for sale, trade or barter any goods, merchandise or service, performing any service for profit, delivering any goods or merchandise within the City, personally advertising by individual contract with residents of the City any goods, merchandise or service to be sold or performed within or without the City. Such activity shall also include engaging in an enterprise, establishment, store, shop, activity, profession or undertaking of any nature conducted, either directly or indirectly, for private profit or benefit.

3. "The City" means the City of Tigard, Oregon.

4. "City Council" means the City Council of the City of Tigard, Oregon.

5. "Full-time equivalent employee" means the total number of hours worked by all employees working within the City of Tigard divided by two thousand eighty hours, which equals the number of full-time equivalent employees working within the City of Tigard.

6. "Person" means and includes but is not limited to individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors of any kind or personal representatives thereof, in any capacity, either on that person's own behalf, or for any other person, under either personal appointment or pursuant to law.

7. "Permanent business" means professions, trades, occupations, shops and all and every kind of calling carried on for profit, personal gain, trade or barter and livelihood at a fixed or permanently established place of business maintained within the City.

8. "Premises" means and includes all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is affixed to or is otherwise used in connection with any such business conducted on such premises.

9. "Temporary business" means any business that meets the criteria outlined in Chapter 18.385.050 of the Community Development Code and has a valid temporary use permit. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.040 Prohibited Business Operation.**

It shall be unlawful for any persons, either directly or indirectly, to engage in any business without having first obtained a business license and where applicable, a Home Occupation Permit and paying the business license fee as prescribed by this chapter. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.050 One Act Constitutes Doing Business.**

For the purpose of this chapter, any persons shall be deemed to be engaging in business or engaging in nonprofit enterprise, and thus subject to the requirements of Section 5.04.040, when undertaking one of the following acts:

1. Selling any goods or service;
2. Soliciting business or offering goods or services for sale, hire, trade or barter;

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3. Acquiring or using any vehicle or any premises for business purposes in the City. (Ord. 07-15; Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.060 Agents Responsible For Obtaining A Business License.**

The agents, representatives or other responsible parties doing business in the City shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this chapter. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.070 Separate License For Branch Establishments And Multiple Locations.**

If any person engages in business in more than one location in the City, a business license fee shall be paid in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Separately franchised operations shall be deemed separate businesses even if operated under the same name. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.080 Rental Real Property.**

Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agents on the premises who is authorized to transact business for each owner or owner's agent, or there is a regular employee of the owner or of the owner's agent working on the premises. (Ord.

88-13 §1(Exhibit A)(part), 1988).

## **5.04.090 Multiple Businesses At Same Location.**

A person engaged in two or more businesses at the same location shall not be required to pay separate business license fees for conducting each such business; but, when eligible, shall be issued one business license which shall specify on its face all such businesses. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.100 No Business License Required.**

Notwithstanding the requirements of this chapter, the following shall not be required to apply for and obtain a business license:

1. No business license shall be required for any person for any mere delivery in the City of any property purchased or acquired in good faith from such person at the regular place of business outside the City.

2. Minors engaged in babysitting, delivery of newspapers, mowing lawns, washing cars, and similar activities.

3. City Sponsored events.

4. Casual or isolated sales (i.e. garage or moving sales) made by persons who are not engaged in the business of selling the type of property involved, provided that no more than four such sales are made annually and last no longer than three days at a time. (Ord. 07-15, Ord. 88-13 §1 (Exhibit A)(part), 1988).

## **5.04.110 Business License Required But Exempt From Business License Fee.**

A non-profit business is required to obtain a business license, but shall be exempt from the

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business license fee. The City shall issue a business license, without requiring the payment of any business license fee therefor to any persons or organization for the conduct or operation of a nonprofit enterprise, either regular or temporary, when the City finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal or religious purpose. A person or organization operating under nonprofit exemption shall operate the nonprofit enterprise in compliance with the provisions of this chapter and all other applicable rules and regulations. (Ord. 07-15, Ord. 88-13 §1(Exhibit A) (part), 1988).

## **5.04.120 Issuance Of Business License.**

1. The City shall collect all business license fees and shall issue business licenses under the provisions of this chapter. The City shall promulgate and enforce rules and regulations necessary for the operation and enforcement of this chapter. Such rules shall be available to the public upon request.

2. Businesses which constitute a home occupation as defined in Chapter 18.385.020 of the Tigard community development code shall have a valid home occupation permit prior to the issuance of a business license. All other business licenses shall be issued upon written application and receipt of the applicable fee by the City.

3. A duplicate business license shall be issued by the City to replace any business license previously issued which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee upon the filing by the licensee of a statement attesting to such a fact and paying the City the fee as provided in the City's fee schedule. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.130 Procedure For Obtaining A Business License.**

1. All business licenses shall be issued upon written application and receipt of the applicable fee by the City.

2. The business license application shall be completely filled out before a business license is issued.

3. An applicant seeking an exemption under section 5.04.110 shall submit an application therefor to the City upon the prescribed forms, and shall furnish such additional information and make such affidavits as the City shall require. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.140 Display.**

Upon payment of the business license fee a person shall be issued a business license by the City, which shall be kept posted in a conspicuous place on the business premises at all times. If there is no physical structure on which to display the business license, the business license shall be in the possession of the representative of the business present within the City at all times during which business is being transacted. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.150 Reissue Of Business License.**

A business license may be reissued if incorrect information is recorded on the license as provided below:

1. If the reissue is the result of incorrect information due to an error by the City or a City employee, there will be no fee.

2. If the reissue is the result of incorrect information due to an error by the applicant or an agent of the applicant, a reissue fee in the same amount as the initial issue fee will be required.

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3. If a business licensee relocates during the calendar year, City files will be updated but a new business license will not be issued until the next renewal business license is issued. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.155 Change In Business Ownership.**

If a person transfers or assigns a business for which a license has been paid, the license is transferable to the new owner after the receipt of a change of ownership fee. The change of ownership fee shall be established by resolution as provided for under section 5.04.160. The new owner shall inform the City of the change in ownership by paying the change in ownership fee and filing a new license application, but shall not have to pay an additional business license fee for that business license year. The new owner will retain the old license number for the remainder of the business license year. A change in the name of the business or change in the location of the business shall require a new business license application and an additional business license fee. (Ord. 07-15)

## **5.04.160 Fee Schedule.**

1. All fees shall be set by resolution of the City Council.

2. The business license year shall be from January 1<sup>st</sup> to December 31<sup>st</sup>.

3. A business license will be valid from the date of issue through December 31<sup>st</sup> of that year.

4. The business license fee shall be paid annually in advance of the business license year. For businesses starting after January 1<sup>st</sup> of any year, the business license fee shall be paid within one month of commencing business. Businesses shall be liable for the license fee from the date

they commence doing business within the City and not from the date that the license fee is paid or business license application is submitted.

5. The initial business license fee for an annual business license can be made at any time. There after the annual business license fee shall be due in full every January 1<sup>st</sup>. If a person engages in business at any time on or after July 1<sup>st</sup> of a business license year, the fee for such business license shall be equal to one-half the business license fee set forth in subsection 1 above. Irrespective of when during the period from January 1<sup>st</sup> to December 31<sup>st</sup> of such license year such person engaged in business, and each applicant must pay the full or partial fee for the current license year or any portion thereof during which the applicant has engaged in business.

6. There will be no business license fee refunds for businesses that cease operation or move out of the City during the business license year. (Ord. 07-15, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **05.04.165 Renewal.**

Application for renewal of all business licenses shall be made on or before December 31<sup>st</sup> of the year following the year of issuance, and each succeeding year, if the business is to be continued. Application for renewal shall be made on forms prescribed by the City manager or designee. A business which has an existing business license, and which has applied for renewal of such license on or before December 31<sup>st</sup> of the license year, may remain in business under its exiting license until such time as the renewal license is either approved or denied. (Ord. 07-15).

## **5.04.170 Commercial Crime Unit.**

The City shall establish within the Police

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Department a Commercial Crime Unit. The additional revenue generated above the current annual projected revenue of \$206,000 per year, shall be dedicated to the creation and the annual operating budget for a Commercial Crime Unit. (Ord. 07-15).

## **5.04.173 Temporary Business.**

1. A temporary business as defined in Section 5.04.030, must comply with all regulations in this chapter.

2. The business license fee for a temporary business shall be set by resolution of the City Council. A business license for a temporary business shall be valid until the initial temporary use permit expires. Any extension or renewal of a temporary use permit shall require an additional business license fee payment. (Ord. 07-15, Ord. 02-05, Ord. 88-13 §1(Exhibit A)(Part), 1988).

## **5.04.180 Administration And Enforcement.**

The City is authorized to conduct inspections to insure the administration and enforcement of this chapter. The Code Enforcement Officer(s) shall be responsible for the enforcement of this chapter. (Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.190 Penalties.**

1. Violation of this chapter shall constitute a Class 2 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions.

2. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.

3. A finding that a person has committed a civil infraction in violation of this chapter shall not act to relieve the person from payment of any unpaid business license, including delinquent

charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

4. Payment of the business license fee after the complaint and summons is served is not a defense.

5. Any applicant or licensee who fails to make an application for an initial business license, or for renewal of an existing business license along with the appropriate fee for the business license year, prior to the delinquency date as provided below shall be subject to a penalty. For the renewal of an existing business license, the business license fee shall be deemed delinquent if not paid by January 1<sup>st</sup> of the applicable business license year. If a person begins engaging in business after the start of the business license year, the license fee shall be deemed delinquent if the fee is not paid within thirty days after commencement of the business activity. Whenever the license fee is not paid on or before the delinquent date a penalty of ten percent (10%) of the license fee due and payable shall be added for each calendar month or fraction thereof that the fee remains unpaid. The total amount of the delinquency penalty for any business license year shall not exceed one hundred percent (100%) of the business license fee due and payable for such year.

6. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988).

## **5.04.200 Rate Review And Adjustment.**

Adjustments in the administration and enforcement portion of this chapter may be made by

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the City Council following a cost analysis to occur annually during the budget cycle and in conformance with Chapter 3.32 of this code. (Ord. 07-15, Ord. 88-13 §1(Exhibit A)(part), 1988). ■