

Chapter 7

BUSINESS

BUSINESS LICENSES

7.000 Definitions. As used in sections 7.000 to 7.080, the following words and phrases shall have the meanings given to them in this section:

Business. Any trade, profession, occupation or pursuit of every kind conducted in the city for gain, with the exception of garage sales.

Apartment house. A building, portion of a building, or a group of buildings on a parcel of land within the city containing two or more dwelling units that are rented, leased, let or made available for compensation for sleeping or living purposes. The term "apartment house" includes a hotel or motel, automobile or tourist court, rooming or lodging house, and mobile home or trailer park. In the case of mobile homes or trailer parks, the term dwelling units means space or stall.

Dwelling units. Each apartment house dwelling unit occupied or available for occupancy, except that an owner-occupied dwelling unit shall not be included in a business license fee computation.

Employee. The number of full-time equivalent (FTE) people directly employed by the business. A factor of 1,920 working hours, or fraction thereof, shall equal one FTE employee.

7.005 Necessity of License--Exemptions.

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 and that the city provide police protection, fire protection, street maintenance, street lighting and other services. It is necessary that license fees be levied and fixed for the purpose of securing revenue to assist in such regulation and in defraying the cost of such police and fire protection and costs of other municipal services. No person whose income consists

of salary or wage paid to such person by an employer or agent thereof covered and defined by sections 7.000 to 7.080, and no person working as a domestic in a private home shall be deemed to be transacting or carrying on business in the city; provided, however, that if any person, as defined herein, fails to pay the license fee and such person has neither his residence nor place of business in the city, but carries on business in the city, the agents or employees of such person engaged in business in the city shall be liable for the payment of such license fee and delinquency charges and/or penalties imposed for failure to comply with sections 7.000 to 7.080.

7.010 Exemption of Certain Residential Builders.

Residential builders as defined by ORS 701.055 who have a valid builder's business license issued by the metropolitan service district and who neither have an office within the city and has not derived gross receipts of \$100,000 or more from business conducted within the city during the calendar year for which the builder's business license is issued shall not be required to pay a business license fee as required by sections 7.000 to 7.080.

7.015 Disposition of Proceeds. All money received from licenses issued hereunder shall be deposited in the general fund.

7.020 Presumption of Engaging in 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 sections 7.000 to 7.080.

7.025 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 sections 7.000 to 7.080.

7.030 License Application.

(1) On or before July 1st, all persons engaging in business within the city shall file an application for annual renewal of the license required by sections 7.000 to 7.080. Any new business that is not in operation on or before July 1st which desires to conduct business within the city shall make application for a license before engaging in any business activity.

(2) Application for a business license shall be made to the city's finance director upon forms provided by the city.

(3) The application for a business license shall include advance payment of the appropriate license fee and delinquency charges if any.

7.035 Examination of Business Premises.

(1) The chief of police, chief of the fire department, building official, and/or their agents and subordinates are authorized to investigate and examine all places of business licensed or subject to license under the terms of sections 7.000 to 7.080 at any time and all reasonable times 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. However, before entering upon private property, the city official shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for the purpose of inspection, except when an emergency exists.

(2) No warrant shall be issued under the terms of sections 7.000 to 7.080 until an affidavit has been filed with the municipal court, showing probable cause for the inspection, by stating the purpose and extent of the proposed inspection, citing sections 7.000 to 7.080 as the basis for the inspection, whether it is an inspection instituted by complaint, and other specific or general information concerning the business in question.

(3) No person shall interfere with or attempt to prevent a city official from entering

upon private premises and inspecting any business when an emergency exists or the city official exhibits a warrant authorizing entry.

(4) In the event it is determined by the city official that the 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, a report of the determination and the reasons therefore shall be made in writing to the city council.

(5) The city council, upon receipt of the written report, shall direct the city manager to send by registered mail to the concerned business notification of a public hearing to be held before the city council. 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 has already been issued a city business license, whether the license should be suspended or revoked by the city council. The notification to the concerned business shall set forth the time and place of the public hearing and will cite specific incidents which constitute the basis for the determination by the city official, 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.

7.040 Suspension or Issuance--Public Hearings.

Public hearing for the purpose of determining whether a business license should be issued or, if previously issued, whether it should be suspended or revoked shall be conducted as a quasi-judicial proceeding before the city council. Evidence or testimony shall be received and considered by the city council only when such evidence or testimony is relevant to the cited incidents or offenses contained in the notification to the concerned business. If the city council determines 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 city council may refuse to issue a business license to the concerned business, or if a business license has previously been issued, may suspend or revoke such license.

7.045 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 which continues to conduct business within the city subsequent to action by the city council to suspend or revoke the city license for such business shall be subject to the same fine and penalties as if such a business had never obtained a city business license and was carrying on business within the city without such a business license.

7.050 Rehearing.

Any business which has been denied a city business license or has had a city license suspended or revoked by action of the city council under the provisions of sections 7.000 to 7.080, shall have the right of a rehearing before the city council for the purpose of reconsideration of such action of the city council, if in the opinion of the city council, the concerned business has presented substantial new evidence relevant to the refusal of the city to issue a business license or to the suspension or revocation of a previously issued business license. A request for rehearing shall be presented in writing by the concerned business to the city council and shall set out the new evidence that the concerned business seeks to bring before the city council. If the city council grants a rehearing, it will be conducted in the same manner as a public hearing to determine whether a business license should be initially issued or whether if one had previously been issued, if it should be suspended or revoked, except that the only evidence or testimony which the city council shall hear in the rehearing, is that which is relevant or material to the new evidence set forth in the request for rehearing by the concerned business.

7.055 Issuance of Business License.

Upon application being made, any investigation required by sections 7.000 to 7.080, to be made having been satisfactorily completed without a determination by the city officials set out in section 7.035 that the

business is dangerous to public health, safety, welfare, or likely to become or is now a public menace or nuisance, or if such a determination has been so made, and if the city council 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.

7.060 Effect of License Issuance.

The issuing of a license pursuant to sections 7.000 to 7.080 or the collection of a fee shall not permit any person to engage in any unlawful business. The license fee levied and fixed by sections 7.000 to 7.080 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 sections 7.000 to 7.080 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; and in the event of a conflict or duplication of a license fee, then such other ordinance shall have precedence over the provisions of sections 7.000 to 7.080, to the extent that there will be no duplication of license fees for the same business, occupation, profession or pursuit.

7.065 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 sections 7.000 to 7.080, except the warehouses used in connection with a business shall not be so separately licensed.

7.070 Display of Business License.

All licenses issued in accordance with sections 7.000 to 7.080 shall be openly displayed in the place of business or kept on the person or on the vehicle of the person hereby licensed and shall be immediately produced and delivered for inspection to the chief of police, chief of the fire department, and their agents or subordinates, when requested by such individuals to do so. Failure to carry such license or produce the same on

request shall be deemed a violation of sections 7.000 to 7.080.

7.075 Business License Year, Fee Schedule, Payments and Delinquency Charges.

(1) The business license year shall be the city's fiscal year, July 1st through June 30th.

(2) License fees shall be set by resolution of the council.

(3) The business license fee shall be paid annually in advance of the business license year. If a person begins engaging in business within the first six months (July to December) of the fiscal year, the fee shall be the amount charged for a full year; if a person begins engaging in business during the third quarter (January to March) of the fiscal year, one-half of the annual license fee will be charged for the remainder of the fiscal year; and if a person begins engaging in business during the fourth quarter (April to June) of the fiscal year, one-fourth of the annual license fee will be charged for the remainder of the fiscal year. In situations where a person intentionally engages in business for less than 31 days, one-fourth of the annual fee shall be charged.

(4) The business license fee shall be considered delinquent if not paid by August 1st of the business license year. If a person begins engaging in business after the start of the business license year, the fee shall be considered delinquent if the tax is not paid within 30 days after commencement of the business activity. The date that the business license fee is received by the city or the date of the postmark if remittance is made by mail shall be used in determining when the business license fee is paid.

(5) If the business license fee is not paid on or before the delinquency date, a delinquency charge equal to ten percent of the original business license fee due shall be added for each 30-day period, or fraction thereof, during which the business license fee and any accumulated delinquency charges remain unpaid. The total amount of the delinquency charge for any business license year shall not exceed 100 percent of the business license fee due for the year.

7.080 Transfer, Assignment or Refund of Business License.

(1) No transfer or assignment of any business license issued hereunder shall be valid or permitted except that whenever any person sells or transfers in whole a business for which such license has been paid and not refunded and the operation of the business has not materially changed, then the vendee thereof shall not be required to pay any additional license thereon for the balance of the business license year.

(2) In the event that a person discontinues business activity within the city, the person may be entitled to a prorated refund, based on two-thirds of the paid business license fee. The two-thirds business license fee subject to refund shall be prorated and refunded for each 30-day period remaining in the business license year. Refunds will be made only upon receipt of a written request, signed by both the vendee and the person discontinuing business and a refund check shall be issued within 30 days to the person discontinuing the business.

ADULT BUSINESSES

7.100 Purpose. The purpose of sections 7.100 to 7.185 is to provide for the regulation of certain types of adult business activities that the council finds present an extraordinary risk of being utilized to facilitate and conceal criminal conduct including offenses involving prostitution, controlled substances, theft, gambling, fraud, obscenity and often involving organized, systematic criminal activities. Therefore, sections 7.100 to 7.185 are intended to minimize such risk by providing for the strict regulation of such business activities and by prohibiting those persons who have previously been involved in such criminal conduct from participating in such business activities. In making this determination, the council has specifically considered the impact that such regulations will have upon the competitive nature of such business activities, and finds that the need for such regulations outweighs such impact.