

## **Chapter 5.04 BUSINESS LICENSES**

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**5.04.010 Purpose.**

This chapter is designed to collect information about businesses operating in the city and provide revenue for municipal purposes. In order for business to be carried on and conducted in the city in a profitable and peaceful manner, the city must provide police protection, fire protection, street maintenance, street lighting and other municipal services. The city's issuance of a license under this chapter is not permission or license to engage in any particular business activity or occupation. This chapter's fees, penalties and other charges are in addition to any other regulatory or non-regulatory certificate, license or permit fees that may be required by any federal, state or local jurisdiction, including the city.

**Statutory Reference:** ORS 221.410

**History:** Ord. 1437 §2, 2012.

**5.04.020 Definitions.**

As used in this chapter:

(1) "Business" includes all professions, trades, occupations, shops, apartments, tenements, office buildings and all and every kind of calling carried on for profit, gain or livelihood.

(2) “Business license” or “license” means the document issued upon full compliance with this chapter for the year in question.

(3) “City” means the City of Gladstone, Oregon.

(4) “Employee” means any person working for, within or under the auspices of a business (other than a bona fide independent contractor or leased employee) regardless of the employment, management or ownership status of that person, including common law and statutory wage earning, commission and salaried employees, executive and common employees, agents, sales representatives, sole proprietors, partners, corporate officers and any and all persons associated directly with the business.

(5) “Exemption certificate” means the document issued by the city in lieu of a license to qualifying businesses and activities under this chapter.

(6) “Person” includes all domestic and foreign corporations, associations, syndicates, partnerships, joint ventures, societies and individuals transacting and carrying on any business in the city excepting individuals whose compensation is based on an hourly, daily, weekly, monthly or annual wage or salary.

(7) “Transfer” means to transfer ownership of a business. It does not mean a change in business location.

**Statutory Reference:** ORS 221.410.

**History:** Ord. 1437 §2, 2012.

#### **5.04.030 License required.**

(1) Except as provided in subsection (2) of this section, any person operating or carrying on business in the city must obtain a license and pay the required fee on an annual basis.

(2) In lieu of a business license and the requirement to pay related fees described in this chapter, the city will issue an exemption certificate without charge to businesses and activities described in subsections (2)(a) through (f) of this section. Notwithstanding the foregoing, a qualifying business or activity must complete and file an initial and thereafter an annual renewal exemption certificate application. Businesses and activities qualified under this provision are:

(a) Religious, educational and charitable organizations specifically exempt from taxation under the Federal Internal Revenue Code;

(b) One-time, annual events or special events if all other applicable permits and licenses have been applied for and granted by the city;

(c) Any business or occupation specifically exempt from the payment of nonregulatory business license fees under state law or federal law (any person claiming an exemption under state or federal law has the burden of demonstrating the applicability of such an exemption);

(d) Any household, garage or yard sale conducted in accordance with any applicable city ordinances or regulations;

(e) Producers of farm products raised in Oregon, produced by themselves or their immediate families and sold by them or by a member of their immediate family;

(f) No person working as a domestic in a private home if the owner or occupant of the home employs or directly pays the domestic worker.

(3) Persons who hold a transient merchant license under Chapter 5.32 are deemed to have complied with this chapter and are only responsible for payment of a transient merchant license fee.

(4) All licenses issued in accordance with this chapter must be openly displayed in the place of business or otherwise kept on the person or on the vehicle of the person licensed. Failure to carry such license or produce the same on request from a city official is a violation of this chapter.

**Statutory Reference:** ORS 221.410.

**History:** Ord. 1437 §2, 2012; Ord. 1465 §1, 2016.

#### **5.04.040 Fees.**

(1) A business license fee is imposed upon businesses in the city in an amount that the city council will set by resolution. It is unlawful for any person to conduct any business in the city without first having paid such fees and without having first obtained a license as provided in this chapter, and renewing the license for each year thereafter, or without having obtained and renewed an exemption certificate, as applicable.

(2) A license or an exemption certificate is effective on the date of its issuance and may be renewed annually thereafter on that date.

(3) The fee imposed by this section is due no later than the date the city issues a business license and will be due annually no later than that date thereafter. A fee not paid within 30 days of its due date is delinquent. If an application for a business license is made within the first six months of the calendar year, the person must pay the full license fee. If an application is made during the last six months of the calendar year, the person is only responsible for paying one-half of the annual license fees for the remainder of the year. Fees are not refundable.

(4) Each branch or location of a business shall obtain a separate license, excepting warehouses used only in connection with a licensed business.

(5) The agent of a nonresident business for which a license is required will be jointly liable for payment of the fee and for any penalties for failure to pay the fee or to comply with the provisions of this chapter to the extent and with like effect as if such agent or agents were themselves proprietors.

**Statutory Reference:** ORS 221.410.

**History:** Ord. 1437 §2, 2012.

#### **5.04.050 Presumption of doing business.**

A person is presumed to be doing business in the city and subject to this chapter if engaged in any of the following activities:

(1) Advertising or otherwise professing to be doing business within the city;

(2) Delivering goods or providing services to customers within the city;

(3) Owning, leasing, or renting personal or real property within the city which is used in a trade or business;

(4) Engaging in any transaction involving the production of income or the intent to produce income from holding property (which may be personal or real in nature) that this chapter does not otherwise exempt; or

(5) Engaging in any business activity that is not otherwise exempt under this chapter.

**Statutory Reference:** ORS 221.410.

**History:** Ord. 1437 §2, 2012.

#### **5.04.060 Fee calculation.**

Business license fees will be set by council resolution. Business license fees may be calculated upon any factors and in any manner established by council. The council may establish a higher license fee for those persons subject to this chapter who do not reside in the city or maintain a physical place of business within the city.

**Statutory Reference:** ORS 221.410.

**History:** Ord. 1437 §2, 2012; Ord. 1445 §1, 2014.

#### **5.04.070 Procedures.**

(1) An application for a license or exemption required under this chapter will be made to the City Recorder on forms that the City Recorder maintains.

(2) Any new business that desires to conduct business within the city, or believes it is entitled to an exemption, must apply at any time during the calendar year and prior to beginning operations. A license fee may be prorated as provided in Section 5.04.040(3). Any existing business must reapply annually to renew its license or exemption, as applicable.

(3) The Police Chief, Fire Chief and their designees may investigate and examine all places of business licensed or subject to license under this chapter at any and all reasonable times in order to determine whether the place of business is safe, sanitary and suitable for the business so licensed or for which application for a license is made.

(4) If such officers or their agents determine 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, they will submit to the City Administrator a report detailing that determination and the reasons for it.

(5) The City Administrator will review the report and either:

(a) Recommend the City Recorder issue a license; or

(b) Deny the business license or revoke it in the case of a previously issued license.

(c) In making his or her decision the City Administrator may request additional evidence and testimony from the applicant, city officials and any other individual who the City Administrator reasonably believes may assist with the decision.

(6) If the City Administrator believes that substantial evidence supports the official's report that the business is a danger to public health, safety, welfare or is likely to become or is at that time a menace or public nuisance, the City Administrator will deny or revoke the license, as appropriate, and will notify the applicant in writing of the decision. If a license is denied or revoked, the business must immediately cease all operations within the city.

The applicant may appeal the City Administrator's denial or revocation to the municipal court. Any appeal must be filed within 10 days of the date of the Administrator's written decision.

The court will hear any appeal on the record and will uphold the City Administrator's decision if substantial evidence supports it.

(7) The City Recorder will issue or renew a license or an exemption, as applicable, only if:

(a) The City Administrator did not receive a report as described in subsection (4); or

(b) The City Administrator pursuant to subsection (5)(a) recommends that the City Recorder issue the license; and

(c) The business to be licensed or any person associated with the business does not owe the city any monies, including, but not limited to, unpaid utility bills, fines, etc.; and

(d) The appropriate license fee due under this chapter is paid; and

(e) The business to be licensed is in compliance with Chapter 9.09.

(8) A person may request a transfer of a business license on forms that the City Recorder maintains. The Council may establish a fee associated with such transfer.

**Statutory Reference:** ORS 221.410.

**History:** Ord. 1437 §2, 2012; Ord. 1446 §2, 2014.

**5.04.080 Falsifying application information—Failure to comply.**

(1) It is unlawful for any person to make any false or misleading statements for the purpose of determining the amount of any license fee to be paid to the city or to otherwise fail or refuse to comply with any of the provisions of this chapter.

(2) In the event a person required by this chapter to obtain a license or an exemption fails, refuses or neglects to obtain the same before it becomes delinquent, the City Recorder will collect, in addition to the fee, a penalty of five percent each calendar month or fraction thereof for the period of the delinquency.

**Statutory Reference:** ORS 221.410.

**History:** Ord. 1437 §2, 2012.

**5.04.090 Violation does not exempt payment of fee.**

(1) A violation of any provision of this chapter does not relieve a business of liability for paying any fee or penalty for which it is liable nor shall payment of any such fee or penalty be a bar to any action that the city may bring in law or equity to enforce or remedy violations of this chapter.

(2) A violation of any provision of this chapter is a Class “D” infraction as specified in Chapter 1.08. Each and every day this chapter is violated constitutes a separate offense.

**Statutory Reference:** ORS 221.410.

**History:** Ord. 1437 §2, 2012.