

ORDINANCE 1516

Exhibit “A”

Chapter 5.04

BUSINESS LICENSES

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5.04.010 Purpose.

The purpose of this chapter is to collect information about businesses operating in the city, provide revenue for municipal purposes, and to provide the city with an additional process to ensure businesses are in compliance with laws and regulations impacting public health and safety. 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.

The following words or phrases, except where the context clearly indicates a different meaning, shall be defined as provided in this section:

- (1) "Applicant" is a person who has applied for a business license under this chapter.
- (2) "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, including operating a rental unit.
- (3) "Business license" or "license" means the document issued upon full compliance with this chapter for the year in question. A licensee is the holder of a business license.
- (4) "City" means the City of Gladstone, Oregon.
- (5) "Exemption Certificate Application" means a business license application that is submitted without fee according to guidelines set in GMC 5.04.030 (2), along with proof of exemption.
- (6) "Exemption certificate" means the document issued by the city in lieu of a license to qualifying businesses and activities under this chapter (i.e.: Business License).
- (7) "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.
- (8) "Fulltime Equivalent Employee (FTE)" means an amount equivalent to the number of full-time workers with 1.0 equal to one full-time worker, and 0.5 equal to one-half of a full-time worker. Two 0.5 FTE's are equal to 1.0 FTE.
- (9) "Rental unit" means a house, duplex, multiplex, apartment, condominium, accessory dwelling unit or other residential dwelling unit for which the property owner receives payment from another for use or occupation of the property. Each individual space or room would be considered a separate rental unit. Rental units can be either "long term rental units," which are used or occupied for 30 days or more to a single party, or "short term rental units," which are used or occupied for less than 30 days to a single party.
- (10) "Rental Property Owner" means the owner of a rental unit.
- (11) "Property Management Company" means any company that is managing a rental unit for a rental property owner.

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 a business 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. Any person claiming an exemption has the burden of demonstrating the applicability of such exemption. Businesses qualified under this provision are:

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

(b) Daycare centers, foster homes, group homes and other like facilities which are required to be state regulated (c) Any person that is recognized by either the State of Oregon or the federal government as a nonprofit organization \;

(d) 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;

(e) 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;

(f) Contractors when their principal place of business is outside of City limits and they have proof that they have obtained a Regional Contractor's business license from the Metropolitan Service District, ("Metro").

(3) A person who holds a transient merchant license under Chapter 5.32 is deemed to have complied with this chapter and is only responsible for payment of a transient merchant license fee.

(4) The following situations are specifically excluded from the requirement of paying a business tax:

(a) A service offered by a person under the age of 18 as an individual and without employees, such as lawn mowing, lemonade stands, and the like.

(b) Persons engaged in delivery of goods or services from points outside the City, providing sales contacts and actual sales take place outside the City.

(c) Newspaper carriers.

(d) Garage sales, yard sales, and other similar activities.

(e) The sale of personal assets such as a personal automobile, residence, appliance, or other articles. Such exclusion shall not apply when such sales are conducted on a regular and continuing basis. That will be assumed to be the case if an individual or family sells its personal residence more than twice or personal automobile more than four (4) times in any given calendar year. Other items shall be determined by the Finance Director or designee on the basis of reasonableness on a case-by-case basis.

(f) Any business or occupation specifically exempt from the payment of regulatory business license fees under state law or federal law such as licensed real estate salespeople or associate real estate brokers who engage in professional real estate activity only as an agent of a real estate broker or real estate organization or licensed insurers, insurance producers, or their representatives in accordance with ORS 731.841.

(g) Municipal, state, or federal agencies.

(5) A license 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 every business located and/or operating within the city, except for a business described in GMC 5.04.030 (2). The fee amount will be set by City Council resolution and may be calculated upon any factors and in any manner established by Council. The Council may also establish a higher license fee for those person's subject to this chapter who do not reside in the city or maintain a physical place of business within the city.

(2) 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.

(3) A license or an exemption certificate is effective on the date of its issuance and may be renewed annually no later than the first day of the calendar year.

(4) The fee imposed by this section is due at the time the application is received by the city and will be due annually no later than the first business day of the calendar year 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.

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

(6) 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.

(7) Each business physically located within city limits must pay the FTE amount, over three (3) FTEs, in addition to the applicable base rate. The number of FTEs for which payment is required is based on the number of FTEs employees as of January 1st for full-year taxpayers and on the first day of business for other taxpayers. No additional payments or refunds are applied for changes in the number of employees during the tax year.

(8) Rental property owners are responsible for paying the rental property fee, applicable to the number of rental units owned, in addition to the business license base rate.

(9) Property management companies who do not own the property they are managing are not required to pay the rental property fee but are required to hold a business license for conducting business as a property management company within the city.

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.

5.04.055 Short-Term Rental Regulations.

In addition to the other requirement of this chapter, the following requirements apply to short-term rental license:

- (a) Quarterly Transient Lodging Tax shall be submitted pursuant to GMC 5.70.
- (b) At any given time, no more than one (1) rental party (i.e. under one (1) separate reservation) shall occupy a dwelling unit at a time.

5.04.060 Procedures.

(1) An application for a license or exemption certificate required under this chapter will be made to the City Recorder or designee, on forms that are maintained by the city.

(2) Any new business that desires to conduct business within the city, or believes it is entitled to an exemption certificate, 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(4). Any existing business must reapply annually to renew its license or exemption certificate, as applicable.

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

- (a) The circumstances listed in GMC 5.04.070(1) are not present; and
- (b) 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
- (c) The appropriate license fee due under this chapter is paid.

Statutory Reference: ORS 221.410.

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

5.04.070 Denial, Revocation, and Suspension of License

(1) The city may deny, revoke, or suspend a license if:

- (a) The applicant or licensee fails to meet the requirements of this chapter or doing business in violation of this chapter

(b) The applicant or licensee is operating a business that is in violation of Gladstone Municipal Code 15.08, Fire Code, and has received at least one violation under GMC 15.08.080.

(c) The applicant or licensee is operating a business that is in violation of Gladstone Municipal Code Title 17, Zoning and Development, and has received at least one violation under GMC 17.98.010.

(d) The applicant or licensee is operating a business that is in violation Gladstone Municipal Code 8.06, Chronic Nuisance, and has received at least one action under GMC 8.06.060.

(e) A finding by the applicable outside agency that the applicant or licensee is doing business in violation of federal, state, or county law and if the City Administrator finds the violation impacts the public's health or safety.

(f) The applicant or licensee has provided false or misleading information or has omitted disclosure of a material fact on the business license application, related materials, or license.

(g) The business license fee has not been paid by the due date.

(2) The City Administrator or Chief of Police or their designees shall provide written notice to the applicant or licensee of a denial, suspension or revocation. The notice shall state the reason for denial, suspension, or revocation and inform the person of the right to appeal.

(3) Notices of revocation or suspension shall be given at least 30 days before the action becomes effective. If the violation ends within the 30 days, the city may discontinue the proceedings.

(4) A person may appeal a denial, suspension revocation as follows:

(a) A written notice of appeal to the City Council shall be filed with the City Administrator within 15 days after the applicant or licensee receives notice pursuant to GMC 5.04.070(2).

(b) The City Council shall hear and make a determination in regard to the appeal at its next regular meeting immediately following the filing of the notice of appeal.

(c) The decision of the City Council on the appeal shall be final and conclusive.

(d) If an appeal is filed pursuant to this section the action will be stayed until resolved.

(5) A person whose application for any business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and required attachments.

5.04.075 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

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 certificate fails, refuses or neglects to obtain the same before it becomes delinquent, the City Recorder will collect, in addition to the fee, a penalty fee will be set by Master Fee Schedule for 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 “A” 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.