

ORDINANCE NO. 193

AN ORDINANCE PROVIDING FOR LICENSES FOR TRADES, SHOPS, OCCUPATIONS, PROFESSIONS, BUSINESSES AND CALLINGS FOR THE PURPOSE OF REVENUE AND REGULATION; PROVIDING FOR THE METHOD OF ISSUING LICENSES; PROVIDING PENALTIES FOR VIOLATIONS; AND REPEALING ORDINANCE NO. 76 AND SECTION 2 OF ORDINANCE NO. 190.

The City of Lakeside does ordain as follows:

Section 1. Definitions. For the purpose of licensing businesses in the City of Lakeside, Oregon, the following definitions apply:

Amusement device. Any game, device, or machine kept, operated, or played in any place of business or other place where the public is invited or permitted to attend and which may be played by the insertion of coins.

Application. A new application, a renewal of an application, or a transfer of license application.

Auctioneer. Any person who sells or offers to sell merchandise by public outcry or to the highest bidder, either for himself or for another person.

Business. Professions, trades, occupations, shops, and every kind of calling carried on for profit or livelihood.

Exhibition. The display of goods or materials for which an admission fee is charged.

Flea market. All general sales, open to the public, conducted in any commercial zone within the city, for the purpose of disposing of personal property. These general sales include, but are not limited to, sales entitled "flea markets," "bazaars," and "rummage sales." "Flea market" also includes situations where booths, tables, or spaces are sold or rented for the purpose of conducting sales of personal property. For the purpose of the definition of "flea market," personal property means property which is owned by the individual conducting the sale, is purchased for resale, or is obtained on consignment.

Garage sale. Any public sale of new or used goods within the city limits by an individual or group of individuals is not in the business of selling goods or is not licensed as a secondhand dealer, and when the property from which the sale is to be conducted is not within a zone permitting commercial business or otherwise permitted under the provisions of this ordinance.

General contractor. Any person who undertakes or offers to undertake for consideration to furnish all of the material, or labor, or both, that are considered necessary to construct, alter, repair, or add to any building or structure, including commercial, residential, or heavy construction work.

Hobby. Any activity which results in an annual profit of less than \$1500.00. For the purpose of this ordinance, "hobbies" are exempt from business license requirements.

Non-profit. Any business or organization which holds a
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certificate of exemption from taxes from the Internal Revenue Service.

Person. All domestic and foreign corporations, associations, syndicates, partnerships of every kind, joint ventures, societies, and individuals transacting and carrying on any business in the city.

Real estate business. An enterprise or undertaking of any nature that deals either directly or indirectly with leaseholds or any interest or estate in land, or both, whether the land is situated in this state or elsewhere.

Residential building contractor. Any person who furnishes or offers to furnish all of the material, or labor, or both, that are required to construct, alter, repair, or add to any residential structure or other residential construction work, and who employs not more than four persons, including the person or persons contracting.

Self-employed. A person who serves as his or her own employer, who is not a general, residential building, or subcontractor, and who employs no other persons.

Subcontractor. A person who contracts on predetermined terms to be responsible for the performance of all or part of a job of construction in accordance with established specifications or plans.

Transient merchant. Any person, firm, or corporation selling or offering to sell, other than at auction, any merchandise in any building, store, room, or place of business with the intention of doing so for a short period of time and without the intention of permanently doing so in the regular course of business.

Vending machine. Any machine from which food, drink, or cigarettes are received in return for the insertion of coins.

Section 2. Purpose. This ordinance is enacted to provide revenue to pay for the expenses required to issue licenses, to provide revenue to pay for municipal services to business, and to regulate businesses.

Section 3. Non-Profit Organizations. Nothing in this ordinance shall be construed to apply to any non-profit business or organization, including instances where the non-profit business or organization serves as sponsor of an event (except that refundable deposits may be required), but proof of a business's or organization's non-profit status may be required.

Section 4. Agents of Nonresident Proprietors. The agent or agents of a nonresident proprietor engaged in any business for which a license is required by this ordinance shall be liable for the payment of fees established by the Council, except as otherwise provided by law, and for the penalties for failure to pay the fees or to comply with the provisions of this ordinance as if the agent or agents were themselves proprietors.

Section 5. License Required. It shall be unlawful for any person to transact or carry on or cause to be transacted or carried on any business without having first obtained a license therefore from the City Recorder for the current calendar year.

Section 6. Duration of License. All business licenses under this ordinance are annual and shall expire on December 31. The required application and license fees are due on January 1 of each year for the calendar year commencing with that date and are delinquent on February 1.

Section 7. License Fees.

(1) All trades, shops, businesses, occupations, professions, and callings carried on in the city shall be licensed and the amount to be paid as license fees shall be established by resolution of the council.

(2) Garage sales may be conducted without obtaining a business license. However, no household may conduct more than two garage sales in a one-year period, and no sale may last longer than five days.

(3) A license fee is not delinquent until after the applicant has commenced operation of his trade, shop, business, occupation, profession or calling within the city during the calendar year without paying the required license fee.

(4) When an applicant for a business license has not engaged in business during the calendar year until after June 30, the required fee for the license shall be reduced by one-half. If the applicant had engaged in the same or similar business during the previous calendar year, there will be no reduction in the required fee.

(5) Where the applicant for a business license is operating more than one trade, shop, business, occupation, profession or calling from the same location, each trade, shop business, occupation, profession or calling must be separately licensed, but the applicant need pay only the one license fee which would be the highest fee.

Section 8. License Application.

(1) All business licenses required under this ordinance or any other ordinance shall be issued by the Recorder. The application for any license shall contain the following information:

(a) The description of the business carried on within the city.

(b) The name of the applicant, with a statement of all persons having an interest in the business, either as proprietors or owners of the business.

(c) The location in which the business is conducted.

(d) Proof of the applicant's possession of any licenses, certificates, or registrations that are required by state or federal laws to conduct the type of business listed on the application.

(e) The date of the application.

(f) The average number of persons regularly employed by the business at the time the application for license is made. When practicable, this average shall be computed by adding all regular employees listed on the business's social security reports during the year and dividing this total by the number of reports.

(g) The amount of money tendered with the

application.

(h) Any other information necessary to enable the city to review the application under subsection (2) and to determine the appropriate fee as established by resolution of the Council.

(2) The Recorder shall refer each application to the appropriate departments of the city for review. Approval or denial of the application shall be based on consideration of all available evidence as to whether the proposed business will meet the requirements of the City Charter and ordinances. The license may not be granted if:

(a) The activity or device to be licensed would not comply with city ordinances or state or federal laws.

(b) The licensed activity or device would endanger property or the public's health or safety.

(c) The applicant's violation of law or ordinance represents a reasonable doubt about the applicant's ability to perform the licensed activity without endangering property or the public's health or safety.

(d) The applicant fails to supply the information required, or submits misleading or false information, or submitted misleading or false information on a previous application.

(e) The premises to be used by the business do not fully comply with all city ordinances and requirements.

(3) In the event of the transfer of any business, the license shall be transferred using a form provided by the Recorder, signed by the person making the transfer, and accompanied by a transfer fee established by resolution of the Council.

(4) Upon a favorable recommendation from each department, the Recorder shall issue the license. If any department determines that the application should be denied, the Recorder shall notify the applicant of the denial and the reasons for the denial.

Section 9. Unlawful Acts. It is unlawful for any person to willfully make false or misleading statement to the City Recorder for the purpose of determining the amount of a license fee, or to fail to comply with any of the provisions of this ordinance, or to fail to pay any required license fee or penalty.

Section 10. Delinquent License Fees. In the event that any person required to obtain a license fails to obtain the license or pay the required fee before it becomes delinquent, the Recorder shall collect the fee payment with a penalty of ten (10) percent of the fee payment for each calendar month, or fraction of a month, that the fee payment is delinquent.

Section 11. Fee Amounts. Nothing contained in this ordinance may be construed as vesting any right in a license or a contract obligation on the part of the city as to the amount of the fee. Other taxes or fees and the fees provided by Council resolution may be increased, decreased, or created by the city. Any business may be reclassified at any time and other fees or taxes may be levied. No person who has received a license and has paid the fee required

under this ordinance shall be entitled to any refund.

Section 12. Violations. The conviction of a person for violation of any provision of this ordinance may not serve to relieve the person from paying the fee or penalty for which the person is liable. The payment of any fee may not bar or prevent legal prosecution of a complaint for the violation of any provision of this ordinance.

Section 13. Revocation of License. Upon determination that a licensed business, activity, or device within the city violates city ordinances or state or federal laws, or that the application contains false or misleading information, the city recorder may revoke the license upon thirty (30) days' notice in writing to the licensee, with the notice delivered to the licensee's establishment, or the licensee's business address. The notice shall state the reasons for the revocation.

Section 14. Suspension of License. Upon determining that a licensed business, activity, or device presents an immediate danger to persons or property, the Recorder may suspend the license. The suspension takes effect upon the licensee's receipt of the suspension notice, or upon delivery of the notice to the establishment or the licensee's business address. The notice shall state the reason for the suspension. The Recorder may continue a suspension as long as the reason for the suspension exists, or until a determination on an appeal regarding the suspension is made.

Section 15. Appeal.

(1) Any person whose application for a license has been denied, or a licensee whose license has been denied renewal, has been suspended or has been revoked, may, within 30 days after the notice of denial, suspension, or revocation is mailed, appeal in writing to the Council. The appeal shall state:

- (a) The name and address of the appellant.
- (b) The nature of the determination being appealed.
- (c) The reason the determination is incorrect.
- (d) What the correct determination of the appeal

should be.

(2) An appellant who fails to file a statement within the time permitted waives all objections, and relinquishes all rights to appeal. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. At the hearing, the appellant may present testimony and oral argument. The decision of the council is final.

Section 16. Penalties. Violation of, or failure to comply with any provision of this ordinance is punishable upon conviction by a fine not to exceed \$500.

Section 17. Reseller's license. A license or permit may not be granted to any business which operates as an antique dealer, precious metal or gem dealer, scrap metal dealer or second hand dealer, unless said business is in compliance with Coos County
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Ordinance 83-10-0121.

Section 18. Enforcement Agencies. Enforcement of this ordinance may be carried out by the Oregon State Police, the Coos County Sheriff's Department, and other law enforcement agencies.

Section 19. Repeal. Ordinance No. 76, enacted on July 16, 1981, regulating business licensing, is repealed. Section 2 of Ordinance No. 190, adopted on November 10, 1994, amending Ordinance No. 76, is repealed.

Section 20. Severability. The sections of this ordinance are severable. The invalidity of a section may not affect the validity of the remaining sections.

Passed by the Council and approved by the Mayor on 8/10/95.

ATTEST:

Brian Gabbard

Brian Gabbard
City Recorder

APPROVED:

Peter Schoonover

Peter Schoonover
Mayor