

ORDINANCE NO. 91-0-334.A

AN ORDINANCE AMENDING ORDINANCE NO. 80-O-334 ENACTED MAY 30, 1980, AND ENTITLED "AN ORDINANCE REGULATING AND LICENSING CERTAIN BUSINESSES, PROFESSIONS, PURSUITS, AND OCCUPATIONS IN THE CITY OF BROOKINGS FOR REGULATORY AND REVENUE PURPOSES; FIXING THE FEES THEREFOR; PROVIDING FOR AN INCREASE OR DECREASE OF THE SAME; FIXING THE PENALTY FOR VIOLATION THEREOF; PROVIDING FOR THE ENFORCEMENT THEREOF; PROVIDING CERTAIN DEFINITIONS; PROVIDING FOR A SAVING CLAUSE; REPEALING ORDINANCE NO. 145 TO INCREASE THE BUSINESS LICENSE FEE TO \$50; AND DECLARING AN EMERGENCY", BY AMENDING PROVISIONS RELATING TO DEFINITIONS, EXEMPTIONS, PENALTIES AND PROCEDURES FOR THE ISSUANCE OF A LICENSE.

Sections:

Section 1. Amendment to Section 1, Subsection B.

Section 2. Amendment to Section 1, addition of Subsection E.

Section 3. Amendment to Section 5.

Section 4. Amendment to Section 13, Subsection E.

Section 5. Amendment to Section 14.

Section 6. Amendment to Section 23.

Section 7. Remainder of Ordinance No. 80-O-334 to remain unchanged and in full force and effect.

The City of Brookings ordains as follows:

Section 1. Amendment to Section 1, Subsection B. Subsection B of Section 1 of Ordinance No. 80-O-334, enacted May 30, 1980, is hereby amended to read in full as follows:

B. The term "business" as used in this Ordinance shall mean and include any trade, profession, occupation or pursuit of every kind conducted in the City of Brookings for gain including, but not limited to, those businesses hereinafter identified, except the following:

(1) Any business recognized as charitable by the Internal Revenue Service under the provisions of IRC Section 501.

(2) Any business filed as a non-profit corporation under the provisions of ORS Chapter 65.

Section 2. Amendment to Section 1, addition of Subsection E. Section 1 of Ordinance No. 80-O-334 enacted May 30, 1980, is hereby amended by the addition of Subsection E to read in full as follows:

E. The term "transient business" as used in this Ordinance shall be deemed to mean a business as defined in Section 1(B) above that operates from various locations in the City and has no fixed permanent location from which the business is conducted, and which shall not remain at any one location in the City, on public or private property, for more than _____ hours on any single day.

Section 3. Amendment to Section 5. Section 5 of Ordinance No. 80-O-334 enacted May 30, 1980, is hereby amended to read in full as follows:

Section 5. Ability to Conduct Business - License Required - Exemptions.

A. No person shall engage in, prosecute, or carry on any business within the corporate boundaries of the City of Brookings unless and until they have first obtained a license therefor and shall have paid to the City the fee required.

B. The issuance of a business license under the provisions of this Ordinance does not constitute authorization by the City to the licensee to conduct business in any manner in violation of any Ordinance or regulation of the City or any rule, regulation, order or law of the state or federal government.

C. The issuance of a license for a transient business does not constitute authorization for the conduct of that business on any public street or right of way of the City of Brookings, or other public property, unless specific authority is granted to the transient business licensee by the governing body of public entity which owns the public property. The City Manager shall have authority to grant approval for the conduct of transient business on public property and rights-of-way of the City of Brookings.

D. A business is exempt from the requirements of a business license if exempted by the provisions of any other Ordinance of the City, by the constitution and laws of the state or federal government or if exempted by the City Manager under the following circumstances:

(I) Special Events - An exemption to the business license requirements of this Ordinance may be granted by the City Manager of the City of Brookings to a business which is conducted in the City for a single annual special event only, if the business is not otherwise conducted within the City at any other time. The City Manager shall provide notice in advance of the designation of any special event qualifying for this exemption.

Section 4. Amendment to Section 13, Subsection E. Subsection E of Section 13 of Ordinance No. 80-O-334 enacted May 30, 1980, is hereby amended to read in full as follows:

E. The number and location of sanitary facilities for business invitees, customers and other persons using the business premises which facilities shall be located on the site of the business being conducted in the City of Brookings, except that transient businesses shall be exempt from this requirement.

Section 5. Amendment to Section 14. Section 14 of Ordinance No. 80-O-334 enacted May 30, 1980, is hereby amended to read in full as follows:

Section 14. License Certificate - Appeal to City Council. Upon receipt of a completed application and the required fee, the City Recorder may request the assistance of the Chief of Police for investigation of the application with regard to the requirements of this Ordinance or with regard to the health, safety and welfare of the customers, business invitees, and citizens of the City of Brookings who may be on or about the business premises. Within 30 days after the receipt of the completed application and required fee, if the application is in order and the issuance of the license is called for under the terms of this Ordinance, the application shall be accepted and the City Recorder shall issue a City of Brookings business license. The license certificate is evidence of the applicant's privilege to conduct business in the City of Brookings in accordance with the terms of this Ordinance, and the certificate shall bear the printed signature of the Mayor and be counter-signed by the City Recorder.

If an application is incomplete or when the City Recorder determines that an applicant is not qualified for a business license in the City of Brookings, the City Recorder shall give notice of rejection by the City Recorder of the license application to the applicant in writing mailed to the address shown on the application. An incomplete application may be supplemented by additional required information and submitted to the City Recorder within ten days of the date of mailing of the notice of application rejection, and such additional information shall be considered as part of the original application. Upon receipt of additional information to supplement an incomplete application, the application shall then be further reviewed by the City Recorder and accepted or rejected by the City Recorder as provided above within 30 days of receipt of the submittal of additional information.

If an application is rejected by the City Recorder, the applicant may appeal the decision of the City Recorder to the City Council by filing a written notice of appeal with the City Recorder not later than ten days after the date of mailing of the application rejected by the City Recorder. The written request for appeal shall recite the facts or circumstances upon which the appeal is based.

At its next applicable Council meeting, the City Council shall hear the appeal of the applicant to the City Recorder's rejection of the business license application. Upon hearing the appeal by the City Council, the Council may affirm, modify or reverse the decision of the City Recorder, and the City Council shall enter an order upon the Minutes of the meeting in accordance with its decision. If the decision of the City Recorder is reversed, the recorder shall issue a license certificate to the applicant within five (5) working days after the date the order is entered on the Minutes. In the event the City Council affirms the decision of the City Recorder, the Minute order shall stand as the final decision of the City on the applicant's request for a business license in accordance of the terms with the application received.

Section 6. Amendment to Section 23. Section 23 of Ordinance 80-O-334 enacted May 30, 1980, is hereby amended to provide that the maximum penalty for violation of the Ordinance as specified in Section 23 shall hereafter be no more than \$500 and imprisonment not to exceed 30 days in jail.

Section 7. Remainder of Ordinance No. 80-O-334 to remain unchanged and in full force and effect. All the rest and remainder of Ordinance No. 80-O-334 shall remain unchanged and in full force and effect.

First Reading: January 28, 1991

Second Reading: January 28, 1991

Passage: January 28, 1991

Effective date: February 27, 1991

Signed by me in authentication of its passage this 29th
day of January, 1991.



Fred Hummel
Mayor

ATTEST:



Beverly S. Shields
City Recorder