

ORDINANCE NO. 334

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 \$50.00; AND DECLARING AN EMERGENCY.

THE CITY OF BROOKINGS ORDAINS AS FOLLOWS:

Section 1. Definitions. The term "person" as used in this ordinance shall be deemed to mean and include any person, firm, copartnership, association, joint venture, syndicate, society, or domestic or foreign corporation. The term "business" as used in this ordinance shall be deemed to 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 specifically mentioned and listed. The respective terms "proprietor" and "employer" as used in this ordinance shall be deemed to mean and include any person, as herein defined, who is engaged in any "business" as herein defined. The use of any pronoun in this ordinance shall be construed as meaning and including the singular or plural thereof, and the masculine, feminine, and neuter gender, as the case may be.

Section 2. Employe Not Deemed in Business - Purposes. No person who is an employe, and whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary shall, for the purpose of this ordinance, be deemed a person engaged in business in the City of Brookings. It is declared that the purpose of this ordinance is that all license fees levied hereby and hereunder shall be borne by the employer for the privilege of doing business in the City of Brookings; and for the regulation of such business; and for providing revenue for municipal purposes generally; and to pay the necessary expenses for carrying out the provisions of this ordinance.

Section 3 - 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 payment of the license fee therefor and shall be subject to the penalties for failure to pay the same or to comply with the provisions of this ordinance to the same extent and with like effect as though such agent or agents were themselves the proprietors of such business.

Section 4. Representations - Advertisements. Any person representing himself or exhibiting any sign or advertisement to the effect that he is engaged in any of the businesses upon which a license fee is levied by this ordinance shall be deemed to be engaged in such business and shall be liable for the payment of the license fee levied hereby or hereunder, and shall be subject to the penalties for failure to pay the same or comply with the provisions of this ordinance.

Section 5. License Required - Exemptions. No person shall engage in, prosecute, or carry on any business within the limits of the City of Brookings unless or until he shall have first obtained a license therefor and shall have paid to the City of Brookings the license fee provided therefor by this ordinance, unless exempted therefrom by this or another ordinance of the City of Brookings or by the Constitution and laws of the United States of America, or the Constitution and laws of the State of Oregon.

Section 6. Annual Fees. There is hereby levied and imposed upon each business in the City of Brookings a license tax for such business as herein provided. The license tax for each such business for the fiscal year beginning July 1, 1980, and terminating June 30, 1981, and for each such fiscal year thereafter shall be the sum of \$50.00. If the full license tax has not been paid by August 31, the \$50.00 license tax plus 10 per cent shall be paid. The payment of the tax and issuance of a license for the conduct of any business prohibited by law or ordinance of the City of Brookings shall not be deemed to be a permit or license of the City of Brookings for the conduct of any such business or to waive any provision of law or ordinance now or hereafter enacted regulating or prohibiting the conduct of any such business, or a part thereof. In the event the City of Brookings shall be prevented or prohibited by law from licensing and taxing any business, this ordinance shall be and remain in full force and effect as to all other businesses or branches of business provided to be licensed. Any such prohibition or prevention now or hereafter in effect shall not affect the validity of this ordinance as to any other business.

Section 7. Daily Fees. Unless exempted by Section 5, or unless a license has been issued under Section 6, the following listed businesses shall pay a daily license fee to the recorder in the amounts specified opposite the respective businesses:

Carnival and circus	\$ 35.00 a day
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Section 8. Noncompliance Unlawful. It shall be unlawful for any person to carry on or transact any business as in this ordinance specified without first paying to the City of Brookings the license fee imposed by this ordinance.

Section 9. Regular License Term. The annual licenses issued for the fiscal year 1979-80 under previous ordinances will continue in effect until June 30, 1980, when they expire.

Section 10. License Period. If an application is made before December 31 of the fiscal year, no license, except those on a daily basis, may be issued for less than a full fiscal year. If an application is made on or after January 1 of the fiscal year to cover the period from January 1 to June 30, a half-year's license fee of \$25.00 shall be collected for such period or fraction thereof.

Section 11. Fiscal Year Application. On or before July 1 of each fiscal year persons doing business in the City of Brookings shall apply in writing to the City Recorder, upon forms furnished by the City, for a license to engage in business during the fiscal year. When applying for a license, the applicant shall pay the annual license fee prescribed by Section 6.

Section 12. City Recorder to Keep Record. The City Recorder shall file and keep record of every application for a license made under the provisions of this ordinance.

Section 13. Required Application Statements - Renewal. Before being issued a license, the applicant shall fill out a license application form provided by the City under Section 11. The form may require a statement in writing signed by the applicant, describing the type of business, its location and name, the name of the owner, the post office address where mail for the business is received, and other information reasonably needed to issue a license certificate. Applicants who fail to pay the license fee in full, or who hold a license certificate that is revoked, expired, or ceased for any reason are required to make a new and initial application.

Persons may renew a license certificate issued to them before June 30, 1980, if renewal is made before the end of the fiscal year 1979-80, and if made before the end of all fiscal years thereafter. If a license certificate is renewed, the certificate holder need not make a license application.

Section 14. License Certificate - Appeal to City Council. Unless the Recorder believes the application does not conform to this ordinance, when the application and license fee are given to the Recorder, he shall issue a license certificate to the applicant. The license certificate is evidence of the applicant's privilege to conduct business in the City, and the certificate shall bear the printed signature of the Mayor and be countersigned by the Recorder.

When the Recorder believes the application does not conform to this ordinance, he shall give written notice to the applicant that the license will not be issued. Then the applicant may appeal to the Council by filing a written appeal with the Recorder not later than 10 days after the day he receives notice of the action taken by the Recorder.

The appeal shall recite the facts upon which the appeal is based, and shall be addressed to the City Council of Brookings, Oregon. When 30 days have elapsed after the day the appeal is filed with the Recorder, the Council, at the next regular meeting, shall hear the arguments of the applicant. If the Council finds for the applicant, it shall enter an order upon the minutes of the meeting directing the Recorder to issue the license certificate within 30 days after the order is entered on the minutes. The Recorder shall comply with the order. If the City Council finds for the City Recorder, he shall not issue the license certificate.

Section 15. Council to Prescribe Form of Certificate. The form and wording of the license certificate to be issued by the City Recorder shall be prescribed by the City Council; and it shall specify the name of the licensee, the type of business licensed, the location of said business, and the amount of license fee paid.

Section 16. Investigation of Businesses. The Chief of Police and his subordinate Police officers are hereby directed and empowered to investigate and examine all places of business in the City of Brookings at any and all reasonable times for the purpose of determining whether or not such business is being conducted in accordance with the terms of this ordinance.

Section 17. Nontransferable - Exception. No transfer or assignment of any license issued hereunder shall be valid or permitted; except that whenever any person shall sell or transfer the whole of a business for which such license has been issued, the vendee thereof shall, unless otherwise provided by ordinance, be allowed to engage in said business under the vendor's license for the balance of the fiscal year for which the vendor's license was issued.

Section 18. License Not Vested Right. Nothing in this ordinance contained shall be construed as vesting in the licensee any contract right, or creating any contract obligation on the part of the City as to the amount of the license fee, or as to the character of the license issued hereunder; but on the contrary, it shall be construed as reserving to the City the right to increase or decrease at any time any license fee prescribed herein and to change the character of the license and term thereof.

Section 19. Fees Are Additional Revenue. The license fees fixed by and collected, or to be collected, under this ordinance shall be in addition to the general advalorem taxes now or hereafter levied pursuant to law, and also in addition to any and all license fees prescribed by other ordinances pertaining to or regulating specific businesses, occupations, amusements, utilities, trades, and other pursuits for gain.

Section 20. Combination of Certain Businesses. The conduct of a business or businesses at two or more separate and distinct locations within the City of Brookings, shall, for the purpose of this ordinance, be deemed to be a separate business or businesses; and each business shall be subject to the license tax herein provided for.

Section 21. Certificate to be Displayed. Every person who has obtained a license as required by this ordinance for the privilege of doing business in the City of Brookings shall display the license certificate issued to him in a conspicuous place in or upon the premises where said business is conducted, except in the case of contractors, subcontractors, cleaning and dyeing solicitors, wholesale delivery trucks, peddlers, and solicitors. In the case of contractors and subcontractors, said license certificate shall be conspicuously displayed at their principal places of business in the City of Brookings; and in the case of cleaning and dyeing solicitors, wholesale delivery trucks, peddlers, and solicitors, said license certificate shall be carried on the person of the licensee or conspicuously displayed in or upon any vehicle used in the conducting of such business.

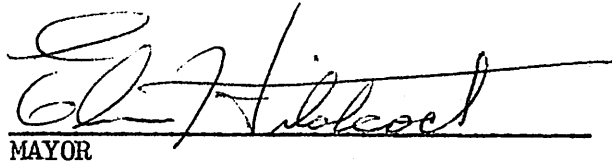
Section 22. Concurrent Cause of Suit. In addition to the penalty provided in Section 23, and as separate and concurrent causes of action or suit, the City of Brookings may, in any Court of competent jurisdiction, sue any person who has or is engaged in business in the City of Brookings without having complied with this ordinance, for the amount of license fee payable hereunder; and also the City may in the same or a separate suit seek an injunction prohibiting such person from engaging in such business in the City of Brookings in violation of this ordinance; and in any such action or suit the City shall, if it prevails, recover in addition to its costs and disbursements a reasonable attorney's fee to be set by the Court.

Section 23. Penalty. Any person or persons, association of persons, firm, corporation, or any agent or representative thereof, or either of them who shall engage in or carry on a business within the corporate limits of the City of Brookings, without having first applied for a license, paid the fee therefor, and obtained a license certificate in accordance with the provisions of this ordinance, shall be deemed guilty of a violation of this ordinance and shall, upon conviction thereof, be punished by a fine in a sum not less than double the amount of the license fee set by this ordinance for such business, nor more than \$200.00, or imprisonment in the City jail for a period not to exceed 100 days, or by both such fine and imprisonment; and no license shall be issued to any person convicted hereunder until the full amount of any fine imposed hereunder shall have been first paid.

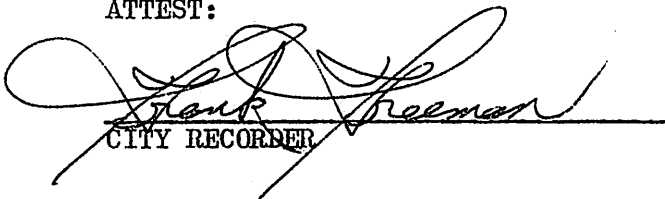
Section 24. Saving Clause. If any section, paragraph, sentence, phrase, or word of this ordinance shall be held to be unconstitutional or invalid, the unconstitutionality or invalidity of such section, paragraph, sentence, phrase, or word shall not affect the validity of any other portion of this ordinance, it being the intent of the Council to enact the remainder of this ordinance notwithstanding such part as may be so declared unconstitutional or invalid.

Section 25. Repealer. Ordinances number 6, 80, 103 and 111 are repealed.

PASSED by the City Council and signed by the Mayor this 30th day of May, 1980.


MAYOR

ATTEST:


CITY RECORDER