

AN ORDINANCE TO REGULATE AND LICENSE PRIVATE BUSINESSES AND OCCUPATIONS IN THE TOWN OF TROUTDALE, REPEALING ORDINANCES NOS. 62 and 113, AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE TOWN OF TROUTDALE DO ORDAIN:

ORDINANCE SECTION 1. Ordinance no. 62 adopted December 13, 1960, and Ordinance no. 113 adopted June 11, 1968 are repealed.

ORDINANCE SECTION 2. There is hereby adopted a License and Business Code and may be hereinafter so referred to.

LICENSE AND BUSINESS CODE

Chapter 1.

DEFINITIONS

Section 1. DEFINITIONS OF GENERAL TERMS.

- (a) Short Title. This ordinance shall be known as the "License and Business Code", and may be so referred to.
- (b) Person. The word "person" as used in this Code shall mean any individual, individuals, copartnership, firm, association, or corporation of any kind or nature whether foreign or domestic.
- (c) Use of Pronoun, and Singular and Plural. Use of a pronoun of any gender in this Code shall include all genders, and use of the singular shall include the plural, and the plural the singular.

Chapter 2.

Section 1. LICENSE REQUIRED. No person shall operate, sell, lease, distribute or maintain any device, vehicle, thing or establishment, specified in this Code or engage in any business, profession, trade or calling unless he has a license from the Town. The annual license fee is \$15.00 and shall be on a calendar year basis. Licenses issued after July 1 of each year shall be \$7.50. By special action of the Council, a license for less than a year may be issued at any time.

Conditions may be attached to a license where the Council finds that compliance with said conditions is necessary to prevent a public nuisance or a menace to the health, peace or general welfare of the Town.

A license shall be required for each branch, establishment or location within the Town of Troutdale, provided, however, that warehouses and distributing plants used in connection with and incidental to a licensed business

shall not be deemed to be separate places of business or branch establishments, unless customers are permitted to enter said warehouses and distributing plants for the purpose of making purchases of merchandise. A license may be issued for temporary sales at such warehouses and distributing plants for a daily fee of \$2.00.

Section 2. DELINQUENCY - PENALTIES.

(a) Delinquency Dates. All license fees required by this Code shall be paid in advance and become due coincidentally with the commencement of an activity for which a license is required, or in the case of renewals, on the first business day following expiration of the previous license. All license fees shall be deemed delinquent if not paid on or before the times hereinafter prescribed, and the length of time between the beginning of the license period and the time hereinafter prescribed shall be considered a grace period during which the license shall be deemed to have been issued on a temporary basis. However, notwithstanding the special grace periods hereinafter prescribed, whenever the Council has specifically directed or approved during any period for which a city license is outstanding, the refusal of renewal of such license, then no grace period shall be permitted, and the license shall terminate completely at the end of the license period; and whenever the Town Council has specifically refused or directed or approved the refusal of renewal of a license during any grace period, as hereinafter prescribed, or when such license renewal has been refused and not appealed to the Council within the time prescribed in the Code, then such grace period shall terminate immediately and the license deemed temporarily issued shall cease and terminate completely upon such refusal, direction or approval.

1. Annual Licenses, Semi-annual Licenses and Quarterly Licenses - the close of business on the last day of the month in which the fee becomes due.
2. Monthly Licenses - the close of business on the day on which the fee becomes due.
3. Daily Licenses - the close of business on each day for which the fee becomes due.

(b) Extensions. No extension from the delinquency dates set forth in subsection (a) hereof may be granted.

(c) Penalties. Whenever any fee required by this article is not paid on or before the aforesaid delinquency dates, a penalty of 50% of the amount shall be imposed. Every penalty shall become a part of the license fee required by this article.

(d) Newly Established Business. In the case of a newly established business no penalty provided for by subsection (c) of this Section shall be imposed if the fee be paid within thirty days after the commencement of operation; otherwise, penalties provided by subsection (c) of this Section shall be imposed as in the case of any other business; provided, that the provision of this subsection shall not apply to the imposition of the additional penalties provided by subsection (f) herein.

(e) Additional Penalties. The following penalties shall be in addition to and not in lieu of the foregoing penalties:

Any person violating any of the provisions of this Code shall upon conviction thereof, be punished by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment. In the event that a provision of this Code is violated by a firm or corporation, the office or officers, or person or persons responsible for the violation shall be subject to the penalty herein provided.

(f) When determining delinquent dates and penalties, the term, "date paid", shall mean the date received by the Recorder or the date of the postmark if remittance is made by mail.

Section 3. REVOCATION OR SUSPENSION OF LICENSES. All licenses are subject to all regulations imposed by the Town. Nothing herein contained shall be construed to create any vested right in any person to the assignment, renewal or continuance of any license. The final authority of licenses shall be at all times vested in the Council, which may, as herein provided, revoke and cancel any license, or refuse the renewal of any license, for any of the following causes or facts:

Fraud or misrepresentation in its procurement;

license period to show cause why such license should not be revoked.

The Council may suspend a license in lieu of revocation and may suspend such license in whole or in part upon a citation to appear and show cause why a license should not be revoked.

Section 4. NOTICE AND HEARING.

Whenever information shall come to the Town Recorder or other department of the Town having jurisdiction over a particular business, that any licensee within the jurisdiction of their respective departments has committed any act rendering any such license subject to revocation, it shall be his duty to forthwith submit the facts in writing to the Council, stating in general terms the grounds of complaint against such licensee. Such report shall be filed by the Recorder and a copy thereof served upon the licensee together with a notice citing him to appear before the Council for an investigation of said complaint at a time and place stated in such notice. The Council may also direct the Town Attorney to cite the licensee to appear before the Council to show cause why his license should not be revoked for an investigation of matters designated by the Council which shall be set forth in such notice. In case service cannot be had upon said licensee, the same shall be mailed to his last known business address. No further pleadings shall be necessary. The hearing and investigation based upon such complaints shall be informal. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence. That a particular condition, act or violation of law, or any other ground set forth in this Code as a basis for license revocation, may have occurred prior to the license period during which the licensee is cited to appear before the Council, shall not be a defense if such matters first came to the attention of the Council after

the current license was issued, and in any event, the Council may consider prior conduct or act of a licensee, his employee or agent, or permitted by him or them, in determining whether such conduct or act tends to render the business or premises licensed a public nuisance or a menace to the public health, peace or general welfare of the Town. If a majority of the Council shall by vote determine that cause exists for the revocation or suspension of such license after such hearing or investigation, the same may thereupon be revoked or suspended.

Section 5. EFFECT OF REVOCATION OR SUSPENSION. Whenever the Council revokes or suspends the license of any person, it shall be unlawful for such person to operate such business at the premises covered by the revoked or suspended license unless or until a new license has been issued therefor subsequent to the revocation, or the period of suspension has terminated.

Whenever the Council shall revoke the license of any person for any reason, it may at the same time also revoke any other license or licenses held by such person for the carrying on of any other business or businesses within the Town, which is operated in connection with the business for which the license has been revoked or any business operated by the same person upon the same premises with that business for which the license has been revoked.

Whenever a license to conduct any business has been revoked by the Council or whenever the issuance of a license or a renewal of license has been denied by the Recorder, no license shall be granted or reissued to the same person or at the same location for any business without the approval of the Council. As a condition of such approval the Council may in its discretion require the applicant to file with the ~~Inspector~~ ^{RECORDER} a bond in the penal sum of \$1,000, which bond shall conform in all respects to the provisions of Chapter 3, Section 6, and which shall be forfeited to the Town if such person is thereafter convicted of a violation of federal, state or town laws or ordinances for which such license may be revoked. The bond shall be required

for the term of the license and shall not be surrendered or cancelled pending final determination of any charge or accusation by federal, state or town officials against the licensee of any violation of any law or ordinance which might justify a forfeiture of such bond. If a license is subsequently approved by the Council for the conduct of a business, the license for which has previously been revoked by the Council or denied by the ~~Bureau of Licenses~~ **RECORDER**, it shall not be necessary to obtain Council approval for a renewal of the Council approved license.

Chapter 3.

ADMINISTRATIVE PROVISIONS.

Section 1. APPLICATIONS FOR LICENSES. All applications for business licenses, unless otherwise provided herein, shall be made in writing to the ~~Bureau of Licenses~~ **RECORDER** upon blank forms provided by the Town. Applications for any license must be signed by the applicant, and in all cases must set forth the true name of the person, firm, or corporation to be engaged in such business, and the persons to be in charge of each unit thereof. Such application shall also set forth the location of each unit to be licensed. The ~~Bureau of Licenses~~ **RECORDER** shall not accept any application containing the name of a person under age 18 as an applicant unless the application is signed by the applicant and his or her parent or guardian.

In addition to the above requirements, all application forms shall contain such specific information as shall be reasonably necessary in determining compliance with the provisions of this Code applicable to the particular business to be licensed. The ~~Bureau of Licenses~~ **RECORDER** may make such reasonable investigation and request such reasonable information as it deems necessary in determining compliance with the requirements of this Code.

Every person required to be licensed under this Code shall keep available and open to inspection by town officials and employees the accounts and books of the business, occupation or activity being licensed and shall permit said officials and employees to inspect said books at any reasonable time so as to check the computation of the license fee provided for under this Code.

No license shall be issued until and unless the application therefor

Violation of any of the provisions of the ordinances and Charter of the Town of Troutdale;

Cancellation of license or permit pursuant to Charter and ordinances of the Town of Troutdale;

Violation of any state or federal statute involving moral turpitude;

Any conduct or act of a licensee or his employees, or any act permitted by him or them on the premises where such business is conducted tending to render such business or such premises where the same is conducted a public nuisance or a menace to the health, peace or general welfare of the Town;

A violation of federal or state law or town ordinance relating to the business or activity licensed and resulting from the conduct of such business or activity;

When the licensee does not have the ability to exercise the license granted, or his business or activity licensed is not operated through the lack of present ability to exercise the license.

The Council may in its discretion suspend the license for any business or activity for any of the causes which are stated herein to be grounds for revocation, for such period as the Council shall find appropriate.

The Council may revoke a license in part where the business or activity licensed is separable with reference to different articles, vehicles, locations, or parts thereof, such revocation being applicable only to such articles, vehicles, locations or parts to which the license is not being exercised, and in case of such separability and revocation in part, a refund should be made of the license fee commensurate with the uncompleted portion of the period covered by the license for the portion revoked.

If a licensee has been cited to appear and show cause why his license should not be revoked as hereinafter provided and the Council determines upon such hearing that the license should not be revoked, such action shall not prevent the use of the circumstances or facts upon which such citation has been issued from being used in a subsequent citation during the same

shall have been approved by the ~~inspector~~ ^{RECORDER}, or the issuance of such license is ordered by the Town Council, subject, however, to the provisions of Section 2.

Section 2. ISSUANCE OF LICENSES, REGULAR AND PROVISIONAL. If license application is for a business not heretofore licensed by the Town or for a business where there has been a change in classification, location or ownership since it was last licensed, and if the ~~inspector~~ ^{RECORDER} is satisfied that the applicant can and will comply with the Charter and ordinances of the Town of Troutdale, he may cause a license to be issued on payment to the Treasurer of the fee prescribed herein for the particular business unless otherwise specifically provided. However, the ~~inspector~~ ^{RECORDER} may cause a provisional license to be issued, upon payment of the prescribed fee, to be effective for a period of 60 days conditioned that the applicant will during such time comply with all the regulations provided by the Charter and ordinances. Upon notice of failure or refusal on the part of any applicant to comply with the regulations during the time specified, the ~~inspector~~ ^{RECORDER} shall automatically cancel said provisional license, and the license fee paid shall be forfeited to the Town of Troutdale.

Section 3. ISSUANCE OF NONPROVISIONAL LICENSE. In all instances where this Code specifically excepts new licenses or licenses where there has been a change in location, ownership, or classification from the provisions of the foregoing section relating to provisional licenses, the application shall be accompanied by a deposit in a sum equal to the license fee required for such business, trade, calling or profession. Such applicants shall sign an agreement in substantially the following form upon payment of such deposit:

I hereby agree to the forfeiture of the deposit accompanying this application if within 30 days from the date hereof I fail or refuse to comply with all the requirements and regulations which are conditions precedent to the issuance of the license sought, and such forfeiture be ordered by the Council.

A receipt shall be issued for such deposit by the Town Treasurer, and the fee shall be held in the Trustee's fund until the applicant shall have complied

with the ordinances and regulations pertaining to the business, trade, calling, or profession for which application for license is made. Upon order of the Council, or upon the inspector's being satisfied that the applicant is a proper person to receive such license, and that he has received such clearances as are required by ordinance or regulation and has complied with all ordinances and regulations pertaining to such business, the applicant shall authorize the Town Treasurer to use such deposit for the payment and issuance of the license. However, should the applicant fail or refuse to comply with all the ordinances and regulations established by the Town as conditions precedent to the issuance of the license 30 days from the date of such application the said deposit may be forfeited by the Council to the Town. No license shall subsequently be issued to such applicant without a new application and a new deposit having been made.

Section 4. RENEWAL OF LICENSES. On the expiration of any license or within 30 days prior thereto, it may be renewed without further application upon payment of the proper license fee, if there has been no change in ownership, location or classification, and no information has come to the attention of the Marshall, Recorder or Town Council which would indicate that it should not be renewed, ~~but provided that a statement of gross sales or receipts or net income must be filed if the license fee is measured by said gross sales or receipts or net income.~~ Any ground for revocation shall be a ground for refusal to renew a license.

Where a license is permitted to become delinquent in accordance with the provisions of Chapter 2 of this Code, the renewal shall date back to the date of expiration of the previous license unless the ~~Bureau of Licenses~~ **RECORDER** receives written notice prior to the delinquent date to the effect that the licensee has ceased to be engaged in a licensable activity.

Section 5. APPEAL. If the Recorder refuses approval or renewal of any license, he shall at once so notify the applicant who may appeal to the Council within ten days thereafter. The Council shall proceed to hear and determine

said appeal, calling upon the Recorder for his reasons therefor. In all cases decisions of the Council shall be final.

Section 6. BOND REQUIREMENTS. All indemnity bonds required by this Code shall be filed with the ~~Inspector~~ ^{RECORDER}. In all cases cash bonds, United States Government bonds, bonds of the town of Troutdale, bonds of the Port of Portland, bridge bonds of Multnomah County, and bonds of School District No. 1, Multnomah County, in the amount required may be filed in lieu of other bonds; provided, such bonds are negotiable by delivery, and in such case the ~~Inspector~~ ^{RECORDER} shall issue his receipt for such cash or negotiable bonds, and thereupon deposit the same with the Town Treasurer, who shall issue his receipt to the ~~Inspector~~ ^{RECORDER} for the same. Each depositor shall agree that such deposit is pledged to pay any agreed claim or final judgment in the same manner that a surety would pay the same.

All indemnity company bonds must be written by a surety company licensed to do business within the state of Oregon upon its regular indemnity bond form, with particular provisions provided therein as required for the licensee by this Code. All such indemnity bond forms must be approved by the Town Attorney. In the event that a bond is filed with personal sureties as guarantors, such sureties must be approved by the ~~Commissioner in charge of the department or~~ ^{COUNCIL} ~~bureau under which the licensee's business falls~~, and the bond must be approved as to form by the Town Attorney. Any person protected by any such bond, and aggrieved by the action of the principal, shall have a right of action upon the bond in the name of the Town for any damage he may have suffered. Upon payment by reason of liability upon any bond, a new bond equal to the former one must be furnished as a condition to continuance of the license.

Section 7. EXPIRATION OF BONDS. In all cases where bonds are required of licensees they shall not be accepted beyond the following periods:

- (a) If licenses are issued to expire one year from date of issuance the bonds shall run concurrently with the licenses.
- (b) If licenses are issued quarterly, semiannually or until December 31

of any year, bonds filed at the time of the issuance of such licenses shall not be accepted on renewal beyond December 31 of year of issuance.

Section 8. INSPECTION OF PREMISES AND POSTING OF LICENSES AND TAGS.

(a) Inspection. Any police officer, employee of the Town of Troutdale, or inspector of any department required to give a clearance or permit under the regulations of the Charter and ordinances of the Town, may at any reasonable time enter any place for which a license is required for the purpose of inspecting the premises or examining the license. Any police officer of the Town when in search of property feloniously obtained or in search of suspected offenders may examine the books of any licensee, or the business of any junk shop, pawnbroker, dealer in secondhand merchandise, or intelligence office keeper. Any police officer may examine any property purporting to be pawned, pledged, or deposited in the possession of any licensee; provided, that such property shall not be taken without due process or authority of law.

(b) Display of Licenses and Tags. Licensees shall keep their licenses posted in a conspicuous manner in their places of business.

Section 9. EXEMPTIONS FROM LICENSES.

- (a) 1. Peddlers and distributors of newspapers, Bibles and Biblical tracts, campaign and political literature, and producers of farm products who peddle products raised only by themselves, shall not be subject to the payment of any license fee but shall otherwise be subject to present regulatory ordinances of the Town of Troutdale, applicable to such callings.
2. Any person desiring to sell agricultural, farm or nursery products produced from the soil of the State of Oregon and desiring to claim the exemption as the producer or employee of the producer of said products shall file in duplicate with the ~~Bureau of Licenses~~ ^{RECORDER} a "Farmer's Exemption Affidavit", which

affidavit shall include the name~~s~~ of the producer and the location where the products to be sold were produced, and such other information as shall be required by the Recorder. A copy of said affidavit shall be carried in the possession of any person selling agricultural, farm or nursery products who claims under the exemption of this subsection.

(b) Any non-resident person who notwithstanding the conduct of certain activity within the Town of Troutdale has been declared by the State Tax Commission of Oregon not to be doing business in the State of Oregon shall be exempt from paying a license fee under the provisions of this Code based upon such activity.

ORDINANCE SECTION 3. Inasmuch as this Ordinance is necessary for the immediate preservation of the public health, peace and safety of the people of the Town of Troutdale in the judgment of the Common Council, now, therefore, an emergency is hereby declared to exist and this Ordinance shall be in force and effect from and after its passage by the Common Council of the Town of Troutdale and its signing by the Mayor.

Passed by the Common Council of the Town of Troutdale this 13th day of August, 1968.

YEAS: 5.

NAYS: 0.

Signed by the Mayor this 13th day of August, 1968.

(s) Glenn E. Otto
Mayor

ATTEST:

Recorder: (s) Truly V. Wright

Ordinance No. 115