

ORDINANCE NO. 616

AN ORDINANCE REPEALING CHAPTER 5.04 (BUSINESS LICENSES) AND CHAPTER 5.20 (SOLICITORS AND PEDDLERS) OF THE TROUTDALE MUNICIPAL CODE; ADOPTING A NEW CHAPTER 5.04 OF THE TROUTDALE MUNICIPAL CODE (BUSINESS LICENSES); PROVIDING FOR AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE:

Section 1. Subject to the provisions of Section 3 of this ordinance, Chapter 5.04 of the Troutdale Municipal Code entitled "Business Licenses" and Chapter 5.20 of the Troutdale Municipal Code entitled "Solicitors and Peddlers" are repealed.

Section 2. A new Chapter 5.04 of the Troutdale Municipal Code entitled "Business Licences" is adopted to read and provide as follows:

CHAPTER 5.04

BUSINESS LICENSES

5.04.010 Purpose.

The primary purpose of this chapter's licensing requirements is to regulate businesses in order to promote the health, safety and welfare of the public. Licensing helps ensure that all new business activities are conducted in compliance with applicable laws and ordinances. Licensing also allows the city to maintain an inventory of existing businesses operating and doing business within its limits. This inventory allows the city to ensure, through inspection, enforcement and other regulatory measures, that such business activities continue to comply with applicable laws and ordinances. The licensing fee required by this ordinance is necessary to finance and provide for the licensing and regulation authorized by this ordinance.

5.04.020 Definitions.

As used in this chapter, unless the context requires otherwise:

A. "Business" means any occupation, profession or commercial activity engaged in for

profit or livelihood in the City. This definition includes, but is not limited to, peddler and home occupation activity.

B. "Council" means the city council of the City of Troutdale.

C. "Garage sale" means a commercial activity open to the public, conducted at a private residence where personal property is sold to others provided that no more than four (4) garage sales per residence per year shall occur and that no garage sale shall exceed three (3) days in duration.

D. "Home Occupation" means a business carried on within a dwelling, and which business is incidental to the use of the dwelling for dwelling purposes.

E. "License" means the permission granted by the city to engage in a business or activity regulated by this chapter.

F. "Licensee" means a person who has a valid license issued pursuant to this chapter.

G. "Mayor" means the person holding the position of mayor or any officer or employee designated by the mayor or city council to perform a function which the mayor is authorized by this chapter to perform.

H. "Peddler" means a person whose business activity consists of traveling to and from residences and businesses and offering for sale, selling, or taking orders for goods or services.

I. "Person" includes all natural and legal persons, including but not limited to, individuals, corporations, associations, partnerships and societies, whether or not engaged in a profit making endeavor.

J. "Principal" means a person who would be directly involved in the management or operation of the business.

K. "Valid license" means a license issued pursuant to this chapter, and which license's effective period has not expired.

5.04.030 License-Required.

No person shall conduct any business within the city without a valid license unless an exemption contained in section 5.04.040 of this code applies.

5.04.040 Exemptions

The requirements contained in this chapter shall not apply to:

- A. Garage sales.
- B. An individual performing babysitting, nursery or child-care activities on a part-time basis.
- C. An individual who is employed by a business which has obtained a license.
- D. An individual hired or employed on an intermittent or casual basis by a household, business or other employer to supply only services.
- E. A person whose primary activity consists of delivering goods inside the city for a business located outside the city.
- F. Any conduct which is exempt from licensing by virtue of the constitution or laws of the United States or the State of Oregon.
- G. A person who leases two or fewer units of residential real estate within the city.
- H. A contractor or landscape contractor (1) who possesses a contractor's license issued by Metro (2) whose place of business is located outside the city, and (3) who earns less than \$125,000 in annual gross revenues from business conducted within the city. For purposes of this subsection, "contractor" has the meaning provided in ORS 701.055(2), and "landscape contractor" has the meaning provided in ORS 701.015(6)(c).
- I. Federally tax-exempt organizations and non-profit religious organizations.
- J. City-sponsored activities and business operating under a city franchise.

5.04.050 License-Application.

- A. A person shall apply for a license in the following manner:
 - 1. Application for a license shall be made to the mayor on or before January 1 of each year for which a license is required; or
 - 2. If the business goes into operation after January 1, application shall be made at least 30 days before conducting business in the city.
- B. A license shall expire on the last day of the calendar year for which the license was

issued.

C. Application for a license shall be on a form provided by the city and signed by the applicant. The application constitutes consent for the city to conduct an investigation of the application, including permission to enter the business property. An application shall request:

1. The name and address of the applicant.
2. The name and address of the business.
3. A description of the type of business to be licensed.
4. The number of persons regularly employed by the business.
5. Any other information the mayor deems necessary to evaluate the application.

D. The mayor shall review an application according to section 5.04.060 of this code. The mayor shall submit the application to appropriate city department heads for evaluation and comment. The mayor may adopt rules to carry out the provisions of this chapter and may prescribe forms for business license applications.

5.04.060 License--Criteria for approval

A. The mayor shall either approve, approve with conditions or deny an application. Action on an application shall be based upon the consideration of all available information. An application may be denied on any of the following grounds:

1. Failure to provide requested information or any false, misleading or incomplete material statement made on the application form; however, if the statement is the result of excusable neglect, the applicant may resubmit an application with appropriate corrections.
2. The applicant, a principal or the business activity fails to meet the requirements of this code or is doing business in violation of this code or applicable state or federal law, including the building, health, mechanical, electrical, plumbing, development and fire codes of the city.
3. The applicant, a principal or the business activity would violate, or has violated, any ordinance or the charter of the city, any state or federal criminal statute, or any other law, unless the applicant proves that the violation has no bearing on the applicant's fitness or the ability of the business to undertake the licensed activity without endangering persons or property or the public health, safety or welfare. The mayor may consider a violation that did not result in a conviction.

4. The business activity would endanger, or has endangered, persons or property, such that the business activity is a menace to the health, safety and general welfare of the city.

B. The mayor shall notify the applicant in writing of a decision made under subsection (A) of this section. The written notice shall state the reason for the decision and explain that the decision is final unless either the applicant or council files a notice of appeal pursuant to section 5.04.150 of this code. The written notice shall also be provided to the council.

C. If the license is approved or approved with conditions, the mayor shall issue a license to the applicant.

5.04.070 License-Fee-Amount.

No license shall be issued under this chapter unless the applicant pays a license fee to the city in the amount set by resolution of the council.

5.04.080 License-Fee-Payment-Delinquencies.

All license fees required by this chapter are due on the required application date. All license fees shall be deemed delinquent if not paid on or before thirty days after the due date. Whenever any license fee is not paid within 30 days of the due date, an additional fee equal to one percent of the fee shall be imposed for each day of delinquency. The number of days subject to a delinquency fee shall include the date on which the license fee was due and the date on which the license fee was actually received by the mayor.

5.04.090 License--Renewal

An application for renewal of a license shall be made and processed in the same manner as an initial application, pursuant to sections 5.04.050 to 5.04.080 of this code.

5.04.100 License-Display.

A. Except as provided in subsection (B) of this section, a license issued under this chapter shall be displayed in a conspicuous place on the business premises at all times during the license's effective period, available for inspection by any interested person.

B. If the licensee does not maintain a place of business within the city, the license or a copy thereof, shall be in the possession of the licensee or the licensee's representative, while that person is conducting business within the city. Upon the request of any police officer or city official, that person shall show the license or its copy.

5.04.110 License--Non-transferable

A license issued pursuant to this chapter is a personal privilege and is not transferable.

5.04.120 License--Separate Business

If a person conducts more than one business in the city, the person shall obtain a license for each business. A separate license is not necessary for a warehouse used in connection with a licensed business but at a separate location.

5.04.130 License-Grounds for Revocation.

A. If the mayor determines that a licensee is conducting or has conducted an activity, which would provide grounds for denial of an application for a license pursuant to section 5.04.060 of this code, the mayor shall notify the licensee in writing that the city is revoking its license.

B. Upon making the determination in subsection (A) of this section, the mayor may include any other related, licensed business conducted by the licensee in the notice of revocation.

C. The notice of revocation shall be sent to the licensee's business or residential address shown on the application form, at least 30 days before the effective date of revocation. The notice of revocation shall state the grounds for revocation and inform the licensee of the provisions for appeal.

D. The council, upon making the determination contained in subsection (A) of this section, may direct the mayor to issue a notice of revocation. The city council may, on its own motion, vacate a notice of revocation issued by the mayor. The licensee shall be notified in writing if a notice of revocation is vacated.

5.04.140 License--Grounds for Suspension

A. If the mayor determines that a licensee or any activity of the licensee presents an immediate danger to persons or property, the mayor may suspend such license by issuing a written notice of suspension.

B. The suspension shall become effective when the licensee receives the notice personally or when the notice is delivered to the licensee's business or residential address as shown on the application. The notice shall contain the grounds for suspension, the effective period of the suspension, and shall inform the licensee of the provisions for appeal.

C. The council, upon making the determination contained in subsection (A) of this

section, may direct the mayor to issue a notice of suspension pursuant to this section. The council may, on its own motion and by resolution, vacate a notice of suspension issued by the mayor. The licensee shall be notified in writing if a notice of suspension is vacated.

5.04.150 Appeal

A. An applicant whose application has been conditioned or denied, or a licensee whose license has been suspended or who has received a notice of revocation, may file a written notice of appeal with the mayor. The notice of appeal must be filed within 10 calendar days after the notice of denial, suspension, revocation or approval with conditions is mailed or delivered, whichever is earlier. The notice of appeal shall include:

1. The name and address of the appellant, and the business owner if different than the appellant;
2. The nature of the determination from which an appeal is taken and a copy of the determination;
3. The reason or reasons why the determination is alleged to be incorrect;
4. What the correct determination should be; and
5. The appeal fee as set by resolution of the council.

B. The council, on its own motion, may review a decision of denial by the Mayor made pursuant to section 5.04.060 of this code. The council shall direct the filing of a notice of appeal by the city administrator. The notice shall be filed with the mayor no later than 14 days after the mayor's decision was mailed. The notice of appeal shall be sent in writing to the applicant, and shall state the time and place which the council will review the mayor's decision and the reason or reasons for review of the mayor's decision.

C. The council shall designate a time to hear the appeal. The appellant shall be given written notice of the time, date and place of the hearing at least 10 days in advance of the hearing.

D. Failure of the applicant or licensee to file a notice of appeal with the mayor within the time allotted, shall constitute a waiver of objections to the notice of suspension, revocation, denial or approval with conditions.

E. Filing a notice of appeal shall stay the effective date of revocation until a final determination is made on the appeal by the council.

F. Filing a notice of appeal does not stay the effective date of suspension.

5.04.160 Appeal--Hearing

A. A hearing on appeal to the council pursuant to section 5.04.150 of this code shall afford the licensee or applicant, the mayor and other interested parties the opportunity to give oral and written testimony and written materials to the council. The licensee or applicant may exercise the right to cross-examine witnesses who present evidence adverse to that person.

B. The council may affirm, modify, remand or reverse the mayor's decision. The council shall provide the licensee or applicant with a written notice of its decision.

5.04.170 License--Reissuance

When a license has been revoked and the licensee or principal of the licensee reapplies for a license, a bond in the penal sum deemed necessary under the circumstances but not to exceed ten thousand dollars shall be filed with the city recorder. This bond shall be required for the term of the license and shall be forfeited to the city if the licensee is convicted of any violation of federal, state or city laws or ordinances for which such license may be revoked.

5.04.180 Violation--Penalty

Any person violating any of the provisions of this chapter, shall upon conviction thereof in municipal court, be punished by a fine not to exceed three hundred dollars for each offense or by imprisonment not to exceed ninety days, or both such fine and imprisonment. A separate offense shall be deemed committed for each day a violation occurs.

Section 3. The former provisions of Chapters 5.04 and 5.20 of the Troutdale Municipal Code continue to apply to any business license application or solicitors and peddlers license application received by the City as of the effective date of this ordinance.

Section 4. It is necessary that this ordinance take effect earlier than thirty (30) days after passage so that its more detailed review criteria and procedural protections apply to business license renewal applications which will be submitted at the beginning of 1995. Therefore, an emergency exists and this ordinance goes into effect immediately upon its passage by the City Council and attestation by the Mayor.

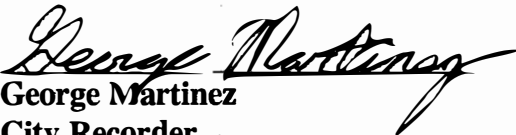
PASSED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS
13 DAY OF DECEMBER, 1994.

YEAS:	<u>5</u>
NAYS:	<u>0</u>
ABSTAINED:	<u>0</u>


Paul Thalhfer, Mayor

Dated: DECEMBER 14, 1994

ATTEST:


George Martinez
City Recorder