

**ORDINANCE No. 683**

**AN ORDINANCE AMENDING TITLE 5, BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.04, BUSINESS LICENSES, AND CHAPTER 5.08, AMUSEMENT AND VENDING MACHINES.**

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

**Section 1. Title 5, Chapter 5.08, is amended to read as follows:**

**Title 5**

**BUSINESS LICENSES AND REGULATIONS**

**Chapters:**

- 5.04 Business Licenses**
- 5.08 Amusement**
- 5.12 Auto Wrecking**
- 5.16 Cable Communications**

**Section 2. Title 5, Chapter 5.04, Business Licenses and Regulations, is amended to read as follows:**

**Chapter 5.04**

**BUSINESS LICENSES**

**Sections:**

- 5.04.010 Purpose.**
- 5.04.020 Definitions.**
- 5.04.030 License—Required.**
- 5.04.040 Exemptions.**
- 5.04.050 License—Application.**
- 5.04.060 License—Criteria for approval.**
- 5.04.070 License—Fee—Amount.**
- 5.04.080 License—Fee—Payment—Delinquencies.**
- 5.04.090 License—Renewal.**
- 5.04.100 License—Display.**
- 5.04.110 License—Nontransferable.**
- 5.04.120 License—Separate business.**
- 5.04.130 License—Grounds for revocation.**
- 5.04.140 License—Grounds for suspension.**
- 5.04.150 Appeal.**
- 5.04.160 Appeal—Hearing.**
- 5.04.170 License—Reissuance.**
- 5.04.180 Violation—Penalty.**

**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 chapter is necessary to finance and provide for the licensing and regulation authorized by this chapter.

**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. "Chief of Police" means the Chief of the Troutdale Police Department or the Chief's designee.

C. "Computerized criminal history record" means the record that is available to the Troutdale Police Department via the Law Enforcement Data System pursuant to OAR 257-015-0060(2).

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

E. "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 garage sales per residence per year shall occur and that no garage sale shall exceed three days in duration.

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

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

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

I. "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.

J. "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.

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

L. "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 two hundred and fifty thousand dollars 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 nonprofit 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 Chief of Police on or before January 1st of each year for which a license is required; or
  - 2. If the business goes into operation after January 1st, application shall be made at least thirty 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 obtain a computerized criminal record for the applicant and any employees that will be working for the applicant, and 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 Chief of Police deems necessary to evaluate the application.
- D. The Chief of Police shall review an application according to Section 5.04.060 of this code. The Chief of Police shall submit the application to appropriate city department heads for evaluation and comment. The Chief of Police 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 Chief of Police shall either approve, approve with conditions or deny an application. Action on an application shall be based upon the consideration of all available information, including, but not limited to, a computerized criminal history record. 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, as shown on a computerized criminal history record, 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 Chief of Police 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 Chief of Police 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 Chief of Police 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. If an applicant has conducted business in the city without a license, the license fee shall include the license fee the applicant would have been required to pay if the applicant had been conducting business pursuant to a license, and a late fee.

**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 thirty days of the due date, a \$25 late fee shall be imposed.

**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—Nontransferable.**

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 Chief of Police 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 Chief of Police 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 Chief of Police 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 thirty 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 Chief of Police to issue a notice of revocation. The city council may, on its own motion, vacate a notice of revocation issued by the Chief of Police. The licensee shall be notified in writing if a notice of revocation is vacated.

**5.04.140 License—Grounds for suspension.**

A. If the Chief of Police determines that a licensee or any activity of the licensee presents an immediate danger to persons or property, the Chief of Police 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 Chief of Police 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 Chief of Police. 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 Chief of Police. The notice of appeal must be filed within ten 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. An appeal fee of \$100.

B. The council, on its own motion, may review a decision of denial by the Chief of Police 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 Chief of Police no later than fourteen days after the Chief of Police'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 Chief of Police's decision and the reason or reasons for review of the Chief of Police'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 ten days in advance of the hearing.

D. Failure of the applicant or licensee to file a notice of appeal with the Chief of Police 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 Chief of Police 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 Chief of Police'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 provisions in this ordinance apply to all business license applications that were filed on or after January 1, 2000.

**Section 4.** An emergency is declared. Immediate adoption of this ordinance is necessary for the public health, safety and welfare because there are pending business license applications that the council wants the Chief of Police to make the initial decision on. Further, the City is in the process of notifying business license applicants of the late fee penalty and finds it is in the best interest of the City to collect the late fee set forth in this ordinance, as opposed to the existing late fee. This ordinance is effective immediately upon its passage and execution by the mayor.

YEAS	<u>7</u>
NAYS	<u>0</u>
ABSTAINED	<u>0</u>

  
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Mayor Paul Thalhofer

2-23-00  
Dated

  
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Debbie Stickney, City Recorder

February 22, 2000  
Adopted

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