

ORDINANCE NO. 1239

**INTRODUCED BY MAYOR HENRY BALENSIFER
AND COMMISSIONER MARK BALDWIN**

**AN ORDINANCE AMENDING WMC 5.04 BUSINESS LICENSE FEE AND REPEALING
WMC 2.28 WARRENTON BUSINESS ASSOCIATION REGARDING UPDATED BUSINESS
LICENSE AND BUSINESS DEVELOPMENT POLICIES AND AMENDED CODES**

WHEREAS, the City Commission has made it a priority to review outdated policies and fee schedules and has not reviewed the WMC 5.04 since 1989 - Ordinance 857-A; and

WHEREAS, the City of Warrenton wants to strike a balance with the need to create new business development opportunities with a need to support community-based economic development initiatives; and

WHEREAS, Spruce Up Warrenton is a non-profit and Oregon Main Street sponsored program responsible for business development in downtown and Astoria-Warrenton Chamber of Commerce for all businesses in Warrenton.

NOW, THEREFORE, the City of Warrenton ordains as follows:

Section 1. Chapter 2.28 of the Warrenton Municipal Code is hereby repealed.

Section 2. Chapter 5.04 of the Warrenton Municipal Code "BUSINESS LICENSE FEE" is hereby amended as follows:

5.04.010 Definitions.

A. "Business" means all services, manufacturers, processors, trades, retail and wholesale shops and any and all occupations carried on in the City of Warrenton for the purpose of profit or not for profit.

B. "Person" means all domestic and foreign corporations, associations, syndicates, partnerships of any kind, joint ventures, societies and individuals transacting and carrying on business in the City of Warrenton. (Ord. 857-A § 1, 1989)

5.04.020 Exclusions.

A. No person whose income is based solely on an hourly, daily, weekly, monthly or annual wages or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in said City. It is the intention that all license fees herein shall be borne by the employer of the person for the privilege of doing business in the City of Warrenton.

B. Nothing in this chapter shall be construed to apply to any person transacting and carrying on any business within the City which is exempt from such license fee or regulation of the City by virtue of either the Constitution or laws of either the United States of America or State of Oregon.

C. A non-profit operating with a 501(c)(3) shall not be required to submit a license application fee.

D. Vendors attending a City Sponsored event are not required to apply for a business license, if that is the only time they are conducting business within the City.

5.04.030 Purpose.

It is necessary to levy license fees through this chapter in order to provide revenue for the primary purpose of enhancing the economy and livability, including the following:

- A. Providing funding for blight and nuisance abatement per City Policy, including property improvement projects that will increase property values or visibility for businesses.
- B. Provide grants to the local Main Street Program or equivalent organization, and grants to nonprofits whose efforts improve the economic value or viability of businesses or business districts as deemed appropriate by the City Commission.
- C. funding for projects, or events that will enhance the livability or economic vitality of the City.
 - 1. Examples include events that celebrate national, state or local holidays; festivals; public movies or games; and other events and activities that promote livability and/or economic activity.
 - a. All events receiving City funds must be open to the public.
- D. Beautification of the City.
- E. Assist with the funding of public safety programs or the purchases of public safety equipment.
- F. Other tasks, projects, or functions recommended and approved by the City Commission, that are consistent with WMC 5.04.040. (Ord. 857-A § 3, 1989)

5.04.040 Policy.

It is the policy of the City of Warrenton to prioritize funding for projects that will have the greatest impact to residents and businesses within the City. Business license funds should not be used to contribute to nonprofits or agencies dedicated to goals other than business promotion or adopted goals of the City. It is also the policy of the City Commission to dedicate a portion of license revenues every year for the continuation of the annual 4th of July Parade, at least one festival event, and winter holiday decorations.

5.04.050 Prohibitions.

Business license funds shall not be used to:

- A. Duplicate the work of entities which receive City transient lodging tax funds for the primary purposes of tourism promotion.
- B. Perpetually fund events, festivals, service programs that are not primarily controlled by the City or its designee.
 - a. E.g. The City may designate a nonprofit or contractor to organize an event like the 4th of July Parade, this may be perpetually funded for as long as that nonprofit or contractor is designated by the City to control that event.
- C. Fund governmental entities other than the City, unless it is to cover a fee or other cost associated with a City led or funded project, program or event.
- D. Be used as a grant program to fund charitable organizations that support another governmental agency's major function.
- E. Provide block grants to nonprofits or social service agencies not directly relating to business development, City supported or sponsored events.
- F. Fund programs or events based and/or held outside of the city limits.

5.04.0640 Payment required.

A. No person may engage in, prosecute or carry on any business without first completing a business license application and paying the required license fee.

B. The agent or agents of a nonresident proprietor engaged in any business for which a license is required by this chapter shall be liable for the payment of the fee thereon, as herein provided, and for the penalties for failure to pay the same, or to comply with the provisions of this chapter to the extent and with like effect as if such agent or agents were themselves the proprietor thereof, resident or nonresident.

C. A person representing or exhibiting a sign or advertisement that such person or business is engaged in any operation for which payment is required by this chapter is deemed to be engaged in such business and shall pay such license fee as required by this chapter.

D. Any person engaged in operating or carrying on more than one business in the City of Warrenton shall pay the license fee prescribed for each business location operated by such person. Only one license is required for vending machine type businesses.

E. Those persons whose physical plants or facilities are located outside of the City, but whose business requires use of the City's streets or services, and whose services or materials are rendered or delivered within the City, are required to file an application and pay the appropriate license fee. (Ord. 857-A § 5, 1989)

5.04.070 City disclaimer.

A. The levy or collection of a license fee upon any business shall not be construed to be a license or permit of the City of Warrenton to the person engaged therein to so engage in the event such business shall be unlawful, illegal or prohibited by the laws of the State of Oregon or the United States, or by the ordinances of the City of Warrenton.

B. Nothing in this chapter shall be constructed as vesting any right in a person engaged in any business required to have a license under this chapter, either by granting the license or under a contract obligation on the part of the City for the amount or character of the license fee. Such a fee may be increased or decreased at any time. (Ord. 857-A § 6, 1989)

5.04.080 Tax year and payment due.

A. The tax year for which the license fees shall be charged hereunder shall commence with the 1st day of July each year and terminate with the close of the business day on the 30th of June of each year. If the applicant applies for a new business license after the 1st of January, the fee shall be 50% of the annual rate.

B. All license fees and accompanying application or renewal form shall be due and payable on the 1st day of July each year.

C. If the license fee is not paid prior to the 31st of July or the nearest working day thereto in the respective year, the license fee will be delinquent and the penalties and rights given by the City of Warrenton under this chapter may be imposed as hereinafter set forth. (Ord. 857-A § 7, 1989)

5.04.090 Duties.

A. It is unlawful for any person to operate or transact any business as specified by this chapter without first paying the City of Warrenton in advance such license fee as is imposed by this chapter.

B. No transfer or assignment of any license issued under this chapter is valid.

C. Whenever a person sells or transfers, a business, the new owner must submit a new application and pay the applicable fee.

D. If a question arises between the applicant for a license and the City auditor, or designate, as to classification, fee or other, the same may be referred to the City Commission for its determination.

E. It is unlawful for any person to willfully make any false or misleading statement to the auditor or his or her designate, in the application for the purpose of determining the amount of license fee herein provided to be paid by any such person, or to fail or refuse to comply with those provisions of this chapter required to be so complied with or observed, or to fail or refuse to pay, before the same shall be delinquent, any license fee or penalty hereby required to be paid by such person. (Ord. 857-A § 8, 1989)

F. A license issued under this chapter shall be available at all times for inspection at the location of said business. The police chief and officers are directed to examine all places of business subject to this chapter at any reasonable time for the purpose of determining whether or not such business is complying with this chapter. (Ord. 857-A § 12 1989)

5.04.100 Classifications and fees.

All fees and classifications will be designated by resolution and approved by the Warrenton City Commission. (Ord. 857-A § 9, 1989)

5.04.110 Procedures for application.

A. Prior to the date due, a person transacting or engaged in a business shall apply for a license and on a form provided by the City.

5.04.140 Penalty clause.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, in the municipal court of the City of Warrenton, be punished by a fine not to exceed \$1000.00. (Ord. 857-A § 13, 1989)

5.04.150 Additional remedies.

A. In addition to the penalties provided herein and as separate and district remedies, the City may, in any court of competent jurisdiction, sue to obtain a judgment and enforce collection thereof by execution for any fee due under this chapter.

B. The City may seek an injunction prohibiting a person from engaging in any business.

C. In any action or suit authorized by this section the City, if it prevails, shall recover reasonable attorneys' fees, in addition to the City's costs and disbursements. (Ord. 857-A § 14, 1989)

Section 3. This Ordinance shall take full force and effect 30 days upon its adoption by the Commission of the City of Warrenton.

First Reading: April 14, 2020

Second Reading: April 28, 2020

ADOPTED by the City Commission of the City of Warrenton, Oregon this 28th day of April 2020.

APPROVED


Henry A. Balensifer III, Mayor

Attest:


Dawne Shaw, CMC, City Recorder