



## ORDINANCE 2008-001

**AN ORDINANCE REPEALING THE CURRENT PROVISIONS OF SHERWOOD MUNICIPAL CODE CHAPTER 5.04 (BUSINESS LICENSES GENERALLY) AND REPLACING THEM WITH NEW PROVISIONS; ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the current provisions of the Sherwood Municipal Code as they relate to business license taxes have not been updated nor otherwise adjusted since the adoption of Ordinance No. 549 in 1967; and

**WHEREAS**, City staff has, in consultation with the City Attorney's office, determined that the most effective programmatic approach for a municipal business license scheme for the City is to have one that is solely a revenue raising device as opposed to a regulatory scheme; and

**WHEREAS**, a non-regulatory business license program involving payment of privilege taxes imposed by Council resolution will benefit the City, its citizens and businesses in terms of overall understandability, ease of implementation and enforcement.

**NOW, THEREFORE, BASED ON THE FOREGOING, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

**Section 1. Chapter 5.04 of the Sherwood Municipal Code is hereby repealed and replaced with the following:**

### **5.04.010 Definitions.**

As used in this Chapter:

- (1) "Business" means an activity carried on by a person predominately for economic profit or livelihood in the City. Any person who advertises or otherwise represents themselves to the public as engaged in business is presumed to be so engaged.
- (2) "City" means the City of Sherwood, Oregon.
- (3) "Contractor" has meaning under ORS 701.005.
- (4) "Employee" means a natural person working for or on behalf of a business in exchange for compensation.
- (5) "Full-Time" means any employee working for or on behalf of a business at least twenty (20) hours per week.

- (6) "Landscape contractor" has meaning given under ORS 701.015(6)(c).
- (7) "Person" includes individuals, corporations, unincorporated associations, partnerships and societies, whether or not for profit.

#### **5.04.020 Purpose.**

- (1) This privilege tax program established herein is purely for the provision of tax revenue only and is non-regulatory.
- (2) The privilege tax authorized by this Chapter is independent of and separate from other tax, license or permit fee(s) authorized and imposed by the City or other public entity. Any person or entity engaged in an activity or conduct subject to the regulatory provisions of the City shall be liable for the payment of any taxes, fees or costs provided for under the provisions of those regulations.

#### **5.04.030 License Required, Exemptions.**

- (1) Unless otherwise exempt under the provisions of subsection (2), it is unlawful for a person to conduct business within the City without first having obtained a license pursuant to this Chapter.
- (2) Exemptions. The provisions of this Chapter shall not apply to:
  - (a) Any organization licensed under Oregon's Charitable Trust and Corporation Act (ORS 128.610 to 128.750) conducting a business in the City as a means to raise funds for said organization's charitable, religious eleemosynary or fraternal purposes.
  - (b) Producers of farm products raised in Oregon, produced by themselves or their immediate families and sold in the City by themselves or their immediate families.
  - (c) A contractor or landscape contractor as defined under ORS 701.005, who possesses a contractor's license issued by the Metropolitan Service District and:
    - i. whose place of business is not located in the City; or
    - ii. who earns less than \$250,000 in gross revenues from business conducted in the City.

#### **5.04.040 License Fees.**

- (1) Upon application for a license under this Chapter, a privilege tax shall be paid the City as the same may be established by Council resolution. The privilege tax shall be composed of two parts: a basic amount and an additional increment based on the number of full time employee(s) of the business, which increment may include a cap.
- (2) The amount imposed for any privilege tax or fee as a result of the terms of this Chapter shall be established and adjusted as necessary by City Council resolution.

- (3) The license issued under this Chapter shall be valid for three hundred sixty-five (365) days from date of issuance.
- (4) If a person operates a business in the City in more than one location, each location is considered a separate business for purposes of this Chapter and licensure and tax.
- (5) A business or service operated under concession or leased on the same premises, when the business is owned in whole or in part by a different person(s) shall be separately charged.
- (6) If a business changes its name but continues to be owned by the same persons or entity, the name change shall be made to the City's license records for a fee set by resolution.
- (7) If ownership of a business changes, though continuing with a same or different name, the new owner(s) shall obtain a business license and pay the appropriate tax.

#### **5.04.050 Application Requirements, Initial Issue.**

Application for the issuance of a license shall be made prior to engaging in business in the City. Each business shall complete and submit an application to the City on forms provided by the City for that purpose. Business license applications shall be accompanied by payment of the appropriate tax. An application without concurrent payment of the privilege tax shall be deemed to be incomplete and shall not be accepted. The application for licensure shall contain the following:

- (1) Name of Business;
- (2) Street and mailing addresses of business;
- (3) Business owner or operator's name and title;
- (4) Name of property owner on which business is located;
- (5) A description of the business; and
- (6) Payment of the appropriate tax.

#### **5.04.060 Application Requirements, Renewal.**

- (1) Application for license renewal shall be made prior to a license's expiration and be made on forms supplied by the City.
- (2) Persons filing late applications for license renewal shall pay, in addition to the application fee, a late fee in an amount set by Council resolution.

#### **5.04.070 Criteria for Approval or Denial.**

Any false or incomplete statement (including failure to pay in full any and all pertinent taxes and/or fee) made on an application or renewal for a business license is grounds for denial of the license authorized by this Chapter.

**5.04.080 Temporary Business License.**

Any person conducting a business within the City which is not domiciled nor otherwise permanently located in the City but is conducting business within the City for a period thirty (30) days or less annually shall apply for and receive a temporary business license and shall pay the license fee for such temporary business as may be established by Council.

**SECTION 2.** This ordinance shall be effective February 15, 2008.

Duly passed by the City Council on this 2<sup>nd</sup> day of January, 2008.

  
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Keith S. Mays  
Mayor

ATTEST:

  
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Sylvia Murphy  
City Recorder

	<u>AYE</u>	<u>NAY</u>
Weislogel	<u>Absent</u>	_____
Luman	<u>✓</u>	_____
King	<u>Absent</u>	_____
Henderson	<u>✓</u>	_____
Heironimus	<u>Absent</u>	_____
Grant	<u>✓</u>	_____
Mays	<u>✓</u>	_____