

ORDINANCE ~~2013-07~~2018-04

AN ORDINANCE AMENDING SECTION 5.24 GENERAL BUSINESS LICENSING IN THE MOLALLA MUNICIPAL CODE ADOPTING THIS AMENDED VERSION OF SECTION 5.24 GENERAL BUSINESS LICENSING.

WHEREAS, City of Molalla revised the Molalla Municipal Code Chapter 5.24 Business Licensing; and

WHEREAS, upon completion of the revision had still left fees in the code; and

WHEREAS, fees should be set by Resolution at Council discretion.

THE CITY OF MOLALLA ORDAINS AS FOLLOWS:

Section 1. Section 5.24 of the Molalla Municipal Code is hereby amended to read as follows:

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

Section 1: That this ordinance amending Section 5.24 General Business Licensing in the Molalla Municipal Code in its entirety and adopting this amended version of section 5.24 general business licensing as attached in Exhibit A.

SECTION 2: This ordinance is effective 30 days after passage.

Adopted this 11 day of April 2018.

Approved:

Jimmy Thompson, Mayor

ATTEST this _____ day of _____ 2018.

Kelly Richardson, CMC
City Recorder

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Chapter 5.24 GENERAL BUSINESS LICENSING

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5.24.010 Definitions.

As used in this chapter of the Molalla Municipal Code, the following words and phrases mean:

A. "Business" means an activity carried on by a person predominately for economic profit or livelihood in the city including professions, trades, occupations, and shops. Any person who advertises or otherwise represents themselves to the public as engaged in business is presumed to be so engaged.

B. "Garage/yard/estate sale" means a commercial activity, open to the public, conducted at a private residence where personal property is sold, or auctioned to others, provided the number of sale days at a particular residence does not exceed three days, and no more than four occurrences per calendar year.

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

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

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

F. "Peddler" means any person who goes from house to house or from place to place in the city, selling or taking orders for, or offering to sell or take orders for goods, wares, merchandise, or any other article for future delivery, for services to be performed in the future, or the making, manufacturing, or repairing of any article or thing whatsoever for future delivery, excepting interstate commerce.

G. "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~~ profit-making endeavor.

H. "Valid license" means a license issued pursuant to this chapter, and which license's effective period has not expired. (Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.015 Purpose of business license fee.

A. The ordinance codified in this chapter is enacted, except as otherwise specified in this section, to provide revenue for municipal purposes including police protection, marketing, tourism promotion, economic development and to provide revenue to pay for the necessary expenses required to issue the license for and regulate the business licensed.

B. The fee required by this code shall be in addition to general ad valorem taxes now or hereafter levied pursuant to law, and shall be in addition to license fees prescribed in other parts of this code.

C. The levy or collection of a business license fee upon any business shall not be construed to be a license or permit of the City to the person to engage therein in the event such business shall be unlawful, illegal, or prohibited by the laws of the State of Oregon, the United States, or other provisions of this code. (Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.019 Contractors' and subcontractors' responsibility.

It shall be the responsibility of all general contractors, utility companies and subcontractors working in the city to obtain a business license. It shall further be the responsibility of all general contractors and utility companies working in the city to provide a list of all names and addresses of subcontractors under their direction. Failure of any subcontractor to obtain a license may result in a stop work order on any project within the city's jurisdiction.

5.24.020 Business license fee imposed.

A. A business license fee is hereby imposed upon the business trades, shops, professions, callings, and occupations specified in Section 5.24.010 of this code. No person may transact and carry on any such business in the city without first having obtained a business license therefore for the current calendar year as herein provided or without complying with any and all applicable provisions of this code.

B. The fee for business licenses shall be due and payable on the first day of January of each year for the calendar year following and shall be delinquent on and after the following first day of February.

Any new business which is not in operation on or before the first day of the license year and which desires to conduct business within the city shall make application for the license required by this chapter to the city before starting a business. ~~As a new business, other processes and fees may apply to determine if business is applicable to the zone. If the application is received on or before June 30, the full license fee is required. An application received on or after July 1, will be charged one half the fee.~~

C. Each branch establishment of business or location of a business conducted by any person shall, for the purposes hereof, be a separate business and subject to the license requirements provided in this code; but warehouses used solely incidental in connection with a business licensed pursuant to the provisions of this code and operated by the person conducting such business shall not be separate places of business or branch establishments.

Commented [KRC1]: A new business license no matter what has a review process attached. I believe the full fee for a new business license is required here, in my opinion. Because it takes City Recorder time and City Planner time to review. This is not just a 5 minute review either.

Again not increasing just charging normal \$70.00 which is currently the same as renewal. We can look at new business license fee later in 2019 when we look at all of the other administration fees.

D. The agent or agents of a nonresident proprietor engaged in any business for which a license is required by this code shall be liable for the payment of the fee, and for the penalties for failure to pay the same as provided in Sections 5.24.035 and 5.24.040 of this code, or to otherwise comply with the provisions of this code to the extent and with like effect as if such agent or agents were themselves proprietors. (Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.021 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.

5.24.025 Exemptions.

A. The provisions of this chapter shall not apply to:

1. Any person transacting and carrying on any business within the City which is exempt from taxation or regulation by the City by virtue of the Constitution of the United States, the State of Oregon, or applicable statutes of the United States or the State of Oregon.

2. Any person whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary, and it is the intention that all registration, taxes and fees will be borne by the employer.

3. Any business paying a franchise fee under City ordinances.

4. Any business which does not maintain any offices, storage facilities or other facilities, or inventory in the City, and whose sole business involves delivering merchandise or goods to persons or businesses in the City.

5. A person whose primary activity consists of delivering goods inside the city for a business located outside the city.

6. Nonprofit organizations-civic organizations and clubs wishing to canvass for funds or sell door-to-door to raise funds or conduct fundraising, federally tax-exempt organizations and non-profit religious organizations.

7. Persons whose gross receipts from business conducted both within and without the City amount to less than \$2,500.00 per calendar year; provided that any such person provide written notice to the City that they are exempt and upon demand by the City provide proof verifying the amount. This exemption does not supersede the applicability of the exemption for garage sales as defined in this chapter.

8. Any person operating a business, display or sales space at any special event with a duration of three days or less. A "special event," as used in this chapter, is deemed to be a City-endorsed activity for the benefit of the community.

9. Any person engaged in a garage, yard or estate sale as defined in this chapter.

10. Any producer of farm products raised in Oregon, produced by themselves or their immediate families, who sell, vend, or dispose of such projects within the City.

B. Any person not subject to the business license fee as set forth under subsection A who receives a notice of business license renewal or application must contact the City in writing to claim an exemption. If no exemption is claimed, an individual or business will be subject to the late fees as set forth under Section 5.24.040(B). (Ord. 2010-13 §1; Ord. 2010-07 §1; Ord. 2008-03 §1)

5.24.030 Amount of business license fee.

A. The license fee shall be set by the City Council by resolution.

B. All fees are on an annual basis. Each business trade, shop, calling or occupation that has multiple departments may apply for a business license under the classification of “general shopkeeper.”

C. If any person be engaged in operating or carrying on in the city more than one trade, shop, profession, occupation, business or calling then such person shall obtain licenses prescribed in this chapter for as many of the trades, shops, professions, occupations, businesses or callings as are carried on by such person. (Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.035 Business license certificate.

All licenses issued in accordance with this chapter shall be openly displayed in a place of business or kept on the person or on the vehicle of the person licensed and shall be immediately produced and delivered for inspection to the Chief of Police and their agents or subordinates when requested by the individuals to do so. Failure to carry the license or produce the same on request shall be deemed a violation of this chapter.

A. A business license certificate shall be issued by the City Recorder or designee upon written application therefor.

B. The application for such certificate shall contain the following information:

1. A description of the trade, shop, business, profession, occupation, or calling to be carried on within the city;

2. The name of the applicant, with a statement of all persons having an interest in said business either as proprietors or owners of the business;

3. The location of the place where the business is carried on;

4. Date of application;

5. Amount of money tendered with application;

6. Signature of applicant. (Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.040 Misleading statements—Nonpayment.

A. No person may willfully make any false or misleading statement to the City Recorder for the purpose of securing a business license certificate; or to fail or refuse to pay before that payment becomes delinquent any business license fee or penalty hereby required to be paid by any such person.

B. In the event any person required to renew a business license fails to pay the license fee, a late fee ~~of \$25.00 as set by resolution per month or any fraction thereof~~ shall be added to the license fee until paid this same late fee will apply to those persons receiving notice of a failure to renew a business license who have not notified the City of any applicable exemptions as listed in Section 5.24.025 above. If after ~~three months March 1st of non-payment of~~ the business license and/or including late fees (unless a payment arrangement has been made in writing) the business shall be cited into Molalla Municipal Court and prosecuted under the general penalty of Molalla Municipal Code as stated in Chapter 1.04. (Ord. 2010-13 §1; Ord. 2008-03 §1)

Commented [KRC2]: To remove fee from ordinance and be set by resolution. Not changing the amount just removing so it can be set by resolution.

Commented [KRC3]: An actual date leaves nothing to misinterpret.

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5.24.045 Additional remedies.

A. The conviction of any person for violation of any of the provisions of this chapter shall not operate to relieve such person from paying any fee or penalty thereupon for which such person may be liable nor shall the payment of any fee be a bar or prevent any prosecution in the Municipal Court of any complaint for the violation of the provisions of this chapter.

B. Any violation of this chapter shall, in addition to any other remedy prescribed by this chapter, be punishable under the general penalty clause of the Molalla Municipal Code. Each day, which a business is operated in violation of this chapter, shall be deemed a separate offense and may be punishable by a separate fine for each day the license is not paid in an amount to be determined by the City and as authorized under Section 1.04.010(B) of the Molalla Municipal Code. (Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.050 Period of license.

Business licenses shall be issued on a calendar year basis and shall expire on December 31st of the year in which they are issued. (Ord. 2010-13 §1; Ord. 2008-03 §1; Ord. 1999-15 §2)

5.24.055 Renewal of licenses.

At least 30 days prior to the expiration of any license issue under this section, and upon any change in the ownership of a business licensed under this section, the licensee shall apply for renewal by application containing the same information as required for an initial application, or, in the alternative, a statement of the particulars in which the information furnished with the initial application is changed. On such investigation as the City deems proper, the license shall be renewed. (Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.060 License—Grounds for revocation or suspension.

A. The City Recorder determines that a licensee is conducting or has conducted an activity, which would provide grounds for denial of an application for a license, and the City Recorder shall notify the licensee in writing that the City is revoking/suspending the license.

B. If the City Recorder determines that a licensee of any activity of the licensee presents an immediate danger to persons or property, the City Recorder may suspend/revoke such license by issuing written notice. (Ord. 2010-13 §1; Ord. 2008-03 §1)

5.24.065 Appeal.

An applicant whose application has been conditioned, denied, suspended or revoked may file a written notice of appeal with the City Administrator. The notice of appeal must be filed within 10 calendar days after the notice of conditioned, denied, suspended or revoked is mailed or delivered, whichever is earlier. The notice of appeal shall include:

- A. The name and address of the appellant, and the business owner if different than the appellant;
- B. The nature of the determination from which an appeal is taken and a copy of the determination;
- C. The reason or reasons why the determination is alleged to be incorrect; and
- D. What the correct determination should be. (Ord. 2010-13 §1; Ord. 2008-03 §1)

When a license has been revoked and the licensee or principal of the licensee reapplies for a license, a bond in the penalty sum deemed necessary under the circumstances, but no to exceed \$10,000, 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 of city laws or ordinance for which such license may be revoked.

~~NOW, THEREFORE, the City of Molalla ordains as follows:~~

~~Section 1: That this ordinance revising Section 5.24 General Business Licensing in the Molalla Municipal Code in its entirety and adopting this revised version of section 5.24 general business licensing.~~

~~SECTION 2: This ordinance is effective 30 days after passage.~~

~~Adopted this 13 day of November, 2013.~~

Approved:

Debbie Rogge, Mayor

ATTEST this ____ day of _____ 2013.

Sadie Cramer, City Recorder