

**First Reading 11/14/2022**

**Second Reading 12/12/2022**

**ORDINANCE NO. 266**

**AN ORDINANCE ESTABLISHING BUSINESS LICENSE REQUIREMENTS WITHIN  
THE CITY OF ADAMS, OREGON**

**Section 1. Purpose.** This ordinance is enacted, except as otherwise specified, to:

- A. Ensure that each business is conducted in compliance with applicable federal, state, and local safety laws, regulations, and ordinances and in a manner comporting with the public health, safety, and general welfare:
- B. Secure revenue to assist in defraying the City's cost of administering and enforcing its laws and ordinances and the City's provision of certain municipal services; and
- C. Obtain valuable information for emergency responders, planning and building personnel, and economic development.

**Section 2. Applicability.** Nothing in the ordinance shall be construed to apply to any person transacting and carrying on any business within the City of Adams which is exempt from taxation or regulation by the city by virtue of the constitution of the United States or the State of Oregon, or applicable federal or state law.

**Section 3. Definitions.** As used in this ordinance:

- A. "Applicant" means the person applying for a license to conduct a particular business within the City.
- B. "Business" means any activity, trade, profession, occupation, or pursuit operated, engaged, conducted, or carried on for profit, gain, livelihood, or any other purpose, regardless of the form under which the activity, trade, profession, occupation, or pursuit is operated, engaged, conducted, or carried on within the City.
- C. "Day" means a calendar day unless otherwise noted.
- D. "Doing business" means to engage in any activity in pursuit of profit, gain, livelihood or any other purpose.
- E. "Income" means the net income arising from any business, as reportable to the State of Oregon for personal income, corporation excise or income tax purposes, before any allocation or apportionment for operation out of state, or deductions for net operating loss-carry forward or carry-back.
- F. "License" means the permission granted by the City under this ordinance to operate, engage, conduct, or carry on a business within the City.
- G. "Licensee" means an applicant who has received a business license.
- H. "Non-profit organization" means any business or organization which is exempt from taxation under the United States Internal Revenue Code and produces a determination letter of proof thereof.
- I. "person" means an individual, partnership, corporation, limited company, joint venture, cooperative or any other entity in the law or in fact.

- J. "Special event" means any special event receiving the prior approval of the City Administrator to be exempt from the license requirements under the ordinance.

**Section 4. License Required.**

- A. Except as exempt under Section 5 below, it shall be unlawful for any person to conduct business within the City without first having obtained a license for the current year as provided under this ordinance.
- B. A person engaged in business in more than one location, or in more than one business licensed under this ordinance shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this ordinance. Only one license under this ordinance is required for mobile businesses such as housekeeping services, food trucks, and other related business which travel throughout the city.
- C. If more than one business is conducted on the same premises, each business must obtain a separate license.
- D. A person representing him or herself or exhibiting any sign or advertisement that he or she is engaged in a business within the City of which a license fee is levied by this ordinance shall be deemed to be actually engaged in such business and shall be liable for payment of such license fee and subject to the penalties for failure to comply with the requirements of this ordinance.
- E. The City may require proof of state registration. An applicant shall possess any county or state license required or shall be waiting final approval by the county or state, if City approval is a prerequisite, before a City license will be issued.
- F. No person shall do business within the City as the employee, agent, or representative of another person unless either the principal or the employee, agent or representative has a current, valid City business license, no matter where the principal offices of that business are situated.

**Section 5. Exemptions.**

The following are exempt from the licensing requirement:

- A. A service business operated by a person under the age of 18, such as a lawn mowing business, a newspaper delivery business or a lemonade stand, and the like.
- B. Individuals who work only on the premises of, and as part of, a licensed business that includes the activity of the individual. Examples include barbers, beauticians, medical care providers, attorneys, accountants, realtors, and others who perform services as part of the overall licensed business. This exemption does not apply if the overall business operation has not obtained a business license.
- C. Garage sales, yard sales and other similar activity conducted, carried on or operated by an individual; provided, however, such exemption will not apply if either of the following conditions are met:
1. The individual conducts, carries on, or operates more than five such sales within a calendar year; or
  2. Any such sale has a duration of more than 72 consecutive hours.
- D. An organizer of participant in a special event, but only with respect to that particular special event.
- E. Activities that qualify as hobbies or passive holding of property for investment purposes under the United States Internal Revenue Code.

The following must obtain a business license but are exempt from payment of the license fee:

- A. Any business exempt from paying local business license fees or taxed by the Federal or State constitution or law.
- B. Any business exempt from paying property tax.
- C. Any entity registered with the Oregon Secretary of State as a non-profit corporation.

**Section 6. Business License Application Requirements.** Each person desiring to engage in doing business must apply for a license to operate, engage, conduct, or carry on the business on such forms and in such a manner as the City Administrator may prescribe. The application must be accompanied by the applicable license fee provided in Section 7 below. The application must be filed with the City Administrator and in addition to any other information reasonably required by the City Administrator, must contain the following information:

- A. The date of the application;
- B. The name and physical address of the business, the address where the business will be located or have its office within the City, and the address of the principal office of such business;
- C. A brief description of the nature of the business, including its primary or predominant business activity;
- D. The date that the business operations will commence;
- E. The name and address of the authorized agent submitting an application on behalf of the applicant;
- F. The average number of persons regularly employed;
- G. The person who may be contacted in case of an emergency and the phone number at which that person may be reached;
- H. The types of hazardous materials, if any, regularly maintained on the premises as defined under ORS 466.605;
- I. Whether any local state or federal licenses, certificated, registrations or permits are required for the business and the identification of such licenses, certificated, registrations or permits;
- J. The license fee tendered with the application;
- K. A verification by signature of the applicant, or authorized agent submitting the application of behalf of the applicant of the following:
  - 1. The information stated in the application is true, accurate and complete;
  - 2. The business is in compliance with all applicable federal, state, and local laws, regulations, and ordinances;
  - 3. The applicant or authorized agent has read, understands, and agrees to abide by the ordinance; and
  - 4. If the applicant is an entity, the authorized agent has the requisite power and authority to sign and submit the application on behalf of the applicant;
- L. A notice that the application is a public record, and that the City will exempt from disclosure only information of a sensitive and confidential nature to the extent required by the Oregon Public Records Law (ORD 192.410-192.505) and other applicable laws; and
- M. Any other information necessary to enable the City Administrator or designee to review the application to determine whether the application should be approved.

**Section 7. Posting and Display of License.** Licensee shall post the license in a conspicuous place upon the premises, available for inspection by the public and any employees and prospective employees of the business. When the licensee has no office, business premises or other established place of business within the City, the license must be in the possession of the agent or representative of the business who is present in the City at all times during which business is being transacted by the agent or representative in the City. If a licensed business is based in a motor vehicle, a photocopy of the license must be carried in the motor vehicle.

**Section 8. Fees Imposed.**

- A. An annual license fee is imposed on the act of doing business with the City by City Council resolution.
- B. Fees are due at the time of the initial application. Renewal fees are due annually by January 1 of the respective year.
- C. A person doing business in the City, for whom payment of a business license fee is delinquent, shall pay as penalty for the delinquency an amount set forth by resolution of the city council for each calendar month or fraction thereof for which payment remains delinquent.
- D. Nothing contained in this ordinance shall vest any right in a license as a contract obligation on the part of the city as the amount of the fee. The fees provided for in this ordinance may be increased or decreased, additional fees may be imposed, and classifications may be changed.
- E. Each person operating more than one business shall pay the license fee prescribed for each of the businesses, except as specifically provided by ordinance.

**Section 9. Transfers and relocations, Terms of License.**

- A. Transfer of License. In the event of the transfer of ownership of a business, the applicable business license may be transferred by application to the City Administrator. The City Administrator may approve the transfer upon finding that the new applicant meets the requirements of this ordinance.
- B. Relocation of an Existing Business. In the event a business is relocated, the licensee shall apply to the City Administrator to transfer the business license. The City Administrator may issue the license upon finding that the new location meets the requirements of this ordinance and other applicable federal, state, and local regulations.
- C. License Term. A business license issued under this ordinance shall be valid from the date of issuance until the following January 1.

**Section 10. Approval, Denial, Revocation, and suspension.**

- A. Approval of Application
  - 1. The City Administrator shall issue a decision on an application for a new business license within 30 days of the submission of a complete application and required fee upon a finding that the applicant has met all requirements of federal, state, and local laws.
  - 2. The City Administrator shall issue a license renewal upon finding that the applicant has met all requirements of federal, state, and local law.
  - 3. If an application for a new license is approved, the City Administrator shall notify the applicant in writing. The notice shall state any conditions or limitation placed on the license as a condition of maintaining the license which the City Council

deems necessary to protect the public health, safety, or welfare which is required by federal, state, or local Law.

B. Denial, Suspension, Revocation of Application

1. The City Administrator may deny, suspend, or revoke a business upon finding that:
  - a. The license fails to meet the requirements of or is doing business in violation of federal, state, or local laws;
  - b. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the applications, related materials, or license;
  - c. The applicants past or present violation of law presents a reasonable doubt about his or her ability to perform the licensed activity without endangering property or the public health or safety;
  - d. The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity; or
  - e. The licensed activity would endanger property or the public health or safety.

C. Notice. The City Administrator shall provide written notice to the applicant or licensee of the denial, suspension, or revocation. The notice shall state the reason for the action taken and shall inform the applicant or licensee of the right to appeal under Section 11 of this ordinance. The notice shall be given at least 15 days before the suspension or revocation becomes effective. If the violation ends within 15 days, the City Administrator may discontinue the suspension or revocation proceedings.

D. Reapplication. A person whose application for a business license that has been denied, suspended or revoked, may, after 90 days from the date of the denial, suspension, or revocation, apply for a license or reinstatement upon payment of the application fee and submission of an application form and related documents.

E. Disqualification. A person whose application for any business license that has been denied or whose license has been revoked for a total of two times within on year, or who has a total of four denials, suspensions, or revocations, shall be disqualified from applying for a license or reinstatement for a period of two years from the date of the denial, suspension, or revocation.

F. Summary Suspension. Upon determining that a licensed activity presents an immediate danger to person or property, the City Administrator may summarily suspend the license for the activity. The suspension takes effect immediately upon notice of the suspension being received by the licensee or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such notice shall state the reason for the suspension and inform the licensee of the provisions for special appeal under Section 11 of this ordinance. Within 15 days of the summary suspension the City Council shall review the pertinent facts which resulted in the suspension and shall determine whether said facts deem it necessary to continue the suspension in order to protect the health, safety and welfare of the citizens of the city, or to otherwise ensure that the requirements of the ordinance are complied with. The City Council may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 11 of this ordinance.

**Section 11. Appeal.** In the event an applicant for a license under this ordinance is denied such a license, or in the event a license is suspended or revoked, the applicant of licensee shall have the right to appeal.

- A. The written notice of appeal to the City Council shall be filed with the City Administrator within 15 days after the license denial, suspension, or revocation.
- B. The City Council shall hear and make a determination regarding the appeal at its next regular meeting immediately following the filing of the notice of appeal.
- C. The decision of the City Council on the appeal shall be final and conclusive.

**Section 12. Violations and Penalties.**

- A. Any person convicted of violating any of the provisions of this ordinance shall be punished by fine not to exceed \$600.00 for any one offense, each day constituting a separate offense.
- B. Inspection and Right of Entry. Whenever they shall have cause to suspect a violation of any provision of this ordinance, or when necessary to investigate an application to, or revocation of a license under any of the procedures prescribed in this ordinance, officials for the enforcement or administration of this ordinance, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation providing they do so in a reasonable manner. If an owner or occupant denies access for an inspection, the City will seek a warrant. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.
- C. Abatement. Any business which established, operated, moved, altered, enlarged, or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.
- D. Legal Proceedings by City Attorney. In addition to the enforcement provisions of the ordinance, upon request by the City Council, the City Attorney may institute any additional proceedings, including but not limited to, seeking injunctive relief to enforce the provisions of this ordinance.

**Section 13. Severability Clause.** A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

**Section 14. Savings Clause.** A prosecution that is pending on the effective date of this ordinance and arose from a violation of an ordinance repealed by this ordinance, or a prosecution started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determine exactly as if the ordinance had not been repealed.

**Section 15. Effective Date.** This ordinance shall be in full force and effect from and after its approval of the Common Council and signature of the Mayor.

Approved by the Common Council on December 12, 2022.

  
\_\_\_\_\_ Mayor

  
\_\_\_\_\_ City Recorder