

ORDINANCE NO. 400

AN ORDINANCE PROVIDING FOR LICENSES UPON TRADES, SHOPS, OCCUPATIONS, PROFESSIONS, BUSINESSES, AND CALLINGS FOR THE PURPOSE OF REVENUE AND REGULATION; PROVIDING FOR THE METHOD OF ISSUING LICENSES; PROVIDING PENALTIES FOR VIOLATION THEREOF AND REPEALING ORDINANCE NO. 360.

THE CITY OF COLUMBIA CITY DOES ORDAIN AS FOLLOWS:

Section 1. [Definitions.]

(a) As used in this ordinance, "city" means the city of Columbia City, a municipal corporation of the State of Oregon.

(b) As used in this ordinance, "person" means all domestic and foreign corporations, associations, syndicates, partnerships of every kind, joint ventures, societies and individuals conducting, transacting or carrying on any business in the city of Columbia City, Oregon.

(c) As used in this ordinance, "business" means all income-producing enterprises, undertakings, professions, trades, occupations, shops and callings of all and every kind which are carried on for profit, benefit or livelihood, including tax exempt, non-profit and charitable organizations. Additional definitions of those doing business within the city:

(1) Persons who cater to the general public by selling of merchandise, rendering professional or nonprofessional services.

(2) Persons whose physical plant or facility is outside the city, but whose business requires use of city streets and services and such services or materials as are delivered or rendered within the city.

The term "profit," as used in this definition, refers to the incentive or desire to produce gain, interest, earnings or return from the business activities and not to the tax exempt status of the business.

(d) As used in this ordinance, "doing, engaging in, transacting, conducting or carrying on business" means any act or series of acts performed in the course of promoting or pursuing a business activity.

(e) No person whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary shall, for the purpose of this ordinance, be deemed a person transacting and carrying on any business in the city unless such person is an independent contractor or is providing personal services. The exclusion contained in this section shall not apply to independent contractors or persons providing personal services, regardless of the method by which they are paid.

(f) It is the intention of this ordinance to impose the license fee upon the owner, partner or operator of the business and not upon a person whose income consists of a salary or wage paid to such person by the owner, partner, operator or employer. However, the employees, agents or representatives of a

person who has no regular place of business within the city, but engages in business within the city, shall be personally responsible for the compliance of their principal and of the business they represent with this ordinance. Therefore, the agent or agents, or employee or employees of a nonresident business whose activities on behalf of that business constitute the basis for which a license is required by this ordinance, are liable for the payment of the fee thereon as provided and for the penalties for failure to pay the same or to comply with the provisions of this ordinance to the extent and with like effect as if such agent or agents were themselves proprietors.

(g) Any person engaged in leasing or renting one or more commercial or industrial rental units and/or two or more residential rental units shall be deemed to be doing business with respect to all lands, buildings, houses, apartments, offices, storage facilities, and the like owned by said person and located within the boundaries of the city which are leased or rented, and such person shall obtain a resident business license. Lands, buildings, houses, apartments, offices, storage facilities and the like shall be considered within the boundaries of the city if all or any part of them or the property on which they are located is within said boundaries. [Amended by Ord. No. 00-558-O 4/20/00]

Section 2. [Purpose; Exemptions.]

(a) This ordinance is enacted, except as hereinafter otherwise specified, to provide revenue for municipal purposes, to provide revenue to pay for the necessary expenses required to issue the license for and regulate the businesses within the city so far as is permitted by law, and to promote public health, safety and welfare.

(b) The license fees levied by this ordinance shall be independent and separate from any other license or permit fees now or hereafter required by ordinance of the city before any person may engage in any business; all such businesses shall remain subject to the regulatory provisions of any such ordinances or ordinance now or hereafter in effect, and the persons engaged therein shall remain liable for the payment of any license fees provided for therein.

(c) The following businesses are exempt from the license fee requirements of this ordinance:

(1) Persons who provide temporary and irregular yard care, house cleaning, home maintenance not requiring a building or plumbing permit and babysitting services. However, childcare facilities are not exempt.

(2) Children who are local, full time students in kindergarten, grade school or high school and their sponsors when selling products or services as fundraisers for local schools, scout groups, sporting leagues and similar local organizations.

(3) Governmental bodies and their administrative agencies which are engaged in governmental functions.

[Amended by Ord. No. 00-558-O 04/20/00]

(d) The levy or collection of a license fee upon any business shall not be construed to be a license or permit to engage therein in the event such business shall be unlawful, illegal, or prohibited by the laws of the State of Oregon or the United States or ordinances of the city.

Section 3. [License: General.]

(a) There are hereby imposed upon the business trades, shops, professions, callings and occupations specified in this ordinance, license fees in the amounts hereinafter prescribed, and it shall be unlawful for any person to conduct, transact or carry on any such business in the city without first having obtained the license therefor for the current calendar year as herein provided and without first complying with any and all application provisions of this ordinance.

(b) The license year shall commence January 1 in each year and shall terminate at midnight, December 31, of the same year; provided, however, that all businesses required to pay a license fee in the amounts hereinafter prescribed shall apply for a license under the terms of this ordinance not later than February 1 of the year for which the license is needed, and failure so to do shall be a violation of this ordinance and subject to the penalty provisions herein.

(c) The license fee herein required shall be due and payable on January 1 of each year for the calendar year commencing with such date and shall be delinquent on and after the following February 1. Licenses for persons who first begin engaging in a business after January 1 in any year shall be due and payable prior to such person engaging in business. All license fees shall be delinquent if not paid within 10 days after due.

(d) Each branch establishment of a business or location of a business conducted by any person shall, for the purpose hereof, be a separate business and subject to a separate license therefor as herein provided. Warehouses used solely and incidentally in connection with a business licensed pursuant to the provisions of this ordinance and operated by the person conducting such business shall not be separate places of business or branch establishments.

(e) If any person be engaged in operating or carrying on more than one business, then such person shall pay the license herein prescribed for as many of said businesses as are carried on by such person, except as herein otherwise specifically provided.

(f) Producers of farm products raised in Columbia City and produced or cultivated exclusively by said producers or their immediate families, shall not be subject to license fees prescribed herein that may apply to the selling of such products if the farm products are sold by themselves or their immediate families exclusively.

Section 4. Business License Fees. All business license fees shall be determined by resolution of the City Council. No business license required by this Ordinance may be issued unless the license fees and all outstanding penalties are paid

in full. However, upon application and a showing of good cause, the City may, but is not required to, waive the license fee to be charged a charitable, fraternal, religious or other tax exempt, nonprofit organization.

Section 5. Procedure for Obtaining License.

(a) All licenses shall be issued by the City Recorder of said city upon written application therefor, and not otherwise.

(b) The application for such license 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 said business.

(3) The location of the place where the business is to be conducted.

(4) Date of application.

(5) Amount of money tendered with application.

(6) Signature of the applicant.

(c) No transfer of any license herein provided for shall be made without the consent of the City Council.

Section 6. Revocation of Licenses.

(a) All licenses are subject to all regulations imposed by the city. The final authority concerning said licenses shall at all times be vested in the common council, which may, as herein provided, revoke, cancel or suspend said licenses for any fraud or misrepresentation in its procurement, for violations of any provisions of this ordinance or of the charter of the city, or for a violation of any state or federal statute or for any acts permitted by the licensee on the premises which would be a violation of any city ordinance, state statute or federal statute, which is a menace to the health, peace and general welfare of the city.

(b) When the common council receives information that it deems it necessary to consider a revocation of any privilege granted under this ordinance, the council shall give notice to the licensee to appear and show cause why the license should not be revoked. The City Recorder shall mail to the licensee certified notice in writing, citing the date, time and place for appearance and the general statement of the allegations upon which the council bases the possible revocation. No formal pleading shall be necessary, except that the council may require the complaining party to appear at the same time and place to give testimony concerning the council's investigation. Such hearing investigation shall be informal. If any licensee shall fail to appear after proper notice has been given and received, the council may revoke said license without further determination. After such hearing and/or investigation, the council shall vote to

determine whether cause exists for revocation of a license and take the appropriate action.

(c) Whenever a license to conduct any business has been revoked by the common council, no license shall be granted or reissued to the same person or at the same location for any business, without the approval of the council. As a condition of such approval, the council may, in its discretion, require the applicant to file with the city a bond in the penal sum of \$1,000, which bond shall conform in all respects to the provisions of this ordinance and which shall be forfeited to the city if the person is thereafter convicted of a violation of federal, state or city laws or ordinances by which such license may be revoked. The bond shall be required for the term of the license and shall not be surrendered or cancelled pending filing a determination of any charge or accusation by federal, state or city officials against the licensee of any violation of any state law or any law or ordinance which might justify a forfeiture of such bond.

(d) All indemnity company bonds must be written by a surety company licensed to do business within the state of Oregon upon its regular indemnity bond form with the particular provisions provided therein, as required within this ordinance. All such indemnity bond forms must be approved by the city attorney. In the event that a bond is filed with the personal sureties as grantor, such sureties must be approved by the City Recorder and the bond must be approved as to form by the city attorney.

Section 7. [Late Payment Penalty.]

(a) It shall be unlawful for any person to willfully make any false or misleading statement to the City Recorder for the purpose of determining the amount of any license fee herein provided to be paid by any such person, or to fail or refuse to comply with any of the provisions of this ordinance, or to fail or refuse to pay before the same shall be delinquent any license fee or penalty hereby required to be paid by any such person.

(b) In the event any person hereby required to obtain a license shall fail or neglect to obtain the same before it shall become delinquent, the City Recorder shall collect upon the payment therefor and in addition thereto, a penalty of ten (10%) percent of the fee therefor for each calendar month or fraction thereof the same shall be delinquent.

(c) Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the city as to the amount of the fee hereunder. Other or additional taxes or fees and the fees herein provided for may be increased or decreased and additional or other fees provided for and levied in any and all instances at any time by the city, and any business may be reclassified or subclassified at any time and other or additional fees levied upon any thereof or parts thereof.

Section 8. [Violations; Convictions.] The conviction of any person for violation of any of the provisions of this ordinance shall not operate to relieve such person from

paying any fee or penalty thereupon for which such person shall be liable, nor shall the payment of any such fee be a bar to or prevent any prosecution in the city court of any complaint for the violation of any of the provisions of this ordinance.

Section 9. [Penalty.]

(a) The amount of any unpaid license fee, including delinquency charges, shall constitute a debt due the city. The city may collect the amount due by an appropriate means, including the institution of an action or suit in the name of the city against the person liable therefor in any court of competent jurisdiction.

(b) No civil judgment, or action taken by the city under this section, shall bar or prevent any prosecution in the municipal court for a violation of this ordinance.

(c) Any person violating any of the provisions of this ordinance shall, upon conviction thereof in the city court, be punished by a fine not to exceed \$500.00 for each day of violation.

(d) In the event a provision of this ordinance is violated by a firm or corporation, the officer or officers or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

[Section 10. [Severability Clause.]]

Passed by the Council and approved by the mayor November 17, 1983.