

VERNONIA ORDINANCE

BUSINESS

An Ordinance Providing for Licenses on Businesses; Providing the Method for Issuing Licenses; Providing Penalties for Violation; Repealing Ordinance Nos. 213, 257, 303, and 765; and Declaring an Emergency

ORDINANCE NO. 867

Purpose

This ordinance is enacted to provide revenue to pay for municipal services to businesses, to provide revenue to pay for expenses required to issue licenses, and to regulate businesses. This Ordinance repeals Ordinance Nos. 213, 257, 303, and 765.

The City of Vernonia does ordain as follows:

Section 1. [Definitions]

The following words and phrases, except where the context clearly indicates a different meaning, shall mean:

- (A) **“Business”** means an enterprise, establishment, trade, activity, occupation, private educational facility, store, shop, profession, calling, or undertaking of any nature conducted, either directly or indirectly, for profit or benefit and which business is being conducted from or within the City of Vernonia. This includes rental properties that offer to rent or lease four (4) or more residential rooms, units or structures, and commercial building rentals containing two (2) or more businesses. It also includes every person desiring to peddle, vend, or hawk any goods, wares, merchandise, or other things within the corporate limits of the City, and every person desiring to solicit orders for the sale of books, albums, maps, pictures, merchandise, or any other goods within the corporate limits of the City, whether for immediate or future delivery.
- (B) **“Doing, engaging in, or transacting business”** includes any act or series of acts performed in the course of pursuit of a business activity.
- (C) **“Non-profit”** means any business or organization that holds a certificate of exemption from taxes from the Internal Revenue Service.
- (D) **“Person”** means any individual, partnership, association, firm or corporation.
- (E) **“Year”** or **“business license year”** means July 1st through June 30th.

Section 2. [Application of Provisions]

(A) Nothing in this Ordinance shall be construed to apply to any person transacting and carrying on any business within the City of Vernonia that is exempt from taxation or regulation by the City by virtue of the constitutions of the United States or of the State of Oregon or applicable statutes of the United States or the State of Oregon.

(B) The license fees levied by this ordinance shall be independent of and separate from any license or permit fees, now or hereafter, required of any person to engage in any business by any ordinance of the City of Vernonia.

(C) Any business seeking to obtain or renew a license under this Ordinance will be required to demonstrate compliance with all applicable insurance requirements, and may be required to show proof of state and federal licenses required to operate the proposed business. Failure to demonstrate compliance with such licensing or insurance requirements will be grounds for rejection of a license application or renewal.

Section 3. [License Required]

(A) License Required. It shall be unlawful for any person to transact or cause to be transacted any business without having first obtained a license for such business from the City Recorder for the current year.

(B) Applicant. It is the intention of this ordinance to require that a business license be obtained by the owner, partner or operator of the business. However, if the employees, agents or representatives of a person who has no regular place of business within the City engage in business within the City, they shall be responsible for compliance with this ordinance.

(C) Exemptions.

The following persons are exempt from license requirements imposed by this ordinance:

(1) Persons whom the City is prohibited from licensing under the constitution or laws of the United States, the constitution or laws of the State of Oregon, or the Charter or ordinances of the City.

(2) Other possible exemptions, subject to City approval, include:

(a) Wholesaler selling or delivering goods to merchants of the City for the purpose of resale. This exclusion pertains only if the wholesaler does not maintain a place of business within the City and also does not engage in retail trade within the City;

(b) Persons engaged in delivery of goods and services from points outside the City, providing sales contacts and actual sales take place outside the City;

(c) Newspaper carriers;

(d) Representatives of public utilities;

(e) Garage sales, yard sales and other similar activities. Such exclusion shall not apply, however, if the sale has a duration of more than seventy-two consecutive hours;

(f) The sale of personal assets such as a personal automobile, residence, appliances or other items. Such exclusion shall not apply when such sales are conducted on a regular and continuing basis. For example, an individual or family that sells its personal

residence more than twice or its personal automobile more than four times in any given calendar year shall not qualify under this exemption;

(g) Other possible exemptions shall be determined by the City Administrator on a case-by-case basis using the provisions of this ordinance for guidance.

(D) Persons whose only business transaction in the City consists of the following:

(1) Sales, exchange or involuntary conversions of real property not held for sale in the ordinary course of trade or business, unless the real property is used in the trade or business in connection with the production of income;

(2) The occasional sale of personal property acquired for household or other personal use by the seller (see subsection (C)(f), supra);

(3) Interest and dividends earned from investments which are not part of a trade or business and gains or losses incurred from the sale of investments which are not a part of a trade or business;

(4) The operation of a display space, booth or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than seven (7) days in any current year.

Section 4. [Multiple Businesses or Premises]

If any person is engaged in operating or carrying on in the City of Vernonia more than one trade, shop, profession, occupation, or business, then such person shall pay the license fee herein prescribed for as many of said trades, shops, professions, occupations, or businesses as are carried on by such persons except as herein otherwise specifically provided.

Section 5. [Fees]

All persons engaged in or transacting business in the City of Vernonia, regardless of whether such person conducts such activities from regular places of business in the City, shall pay an annual business license fee. The amount of said annual business license fee shall be set by resolution of the City Council.

Section 6. [License Year and Payment]

(A) The business license year shall be July 1st to June 30th.

(B) The business license fee shall be paid annually or semi-annually in advance of the business license year.

(C) The license fees shall be independent and separate of any license or permit fees, now or hereafter required of any person to engage in any business by any ordinance of the city; regulating any business herein required to be licensed.

Section 7. [Delinquency Charge]

(A) The business license fee shall be deemed delinquent if not paid by August 1st of the business license year. If a person begins engaging in business after the start of the business license year, the business license shall be deemed delinquent if the fee is not paid within thirty (30) days after commencement of the business activity.

(B) Whenever the business license fee is not paid on or before the delinquency date, a delinquency charge equal to ten (10) percent of the original business license fee due and payable shall be added for each thirty (30) day period, or fraction thereof, during which the business license fee and any accumulated delinquency charges remain unpaid. The total amount of the delinquency charge for any business license year shall not exceed 200 percent of the business license fee due and payable for such year.

(C) The date that the business license fee is received by the City, or the date of the postmark if remittance is made by mail, shall be used in determining when the business license fee is paid.

Section 8. [Application for License or Exemption; Issuance and Exhibition of License]

(A) Upon approval of the business license application and payment of the business license fee, a person shall be issued a business license by the City. The business license shall be kept posted in a conspicuous place on the business premises at all times. Failure to produce and exhibit such receipt, or failure to keep the same posted as provided herein, is hereby declared a violation of the ordinance and punishable as herein provided.

(B) A person seeking an exemption under Section 3.C.2. shall submit an application for an exemption from City business license requirements under this ordinance.

(C) An exemption applicant aggrieved by a decision of the City Administrator under section (B), supra, may appeal such decision in writing to the City Council within fifteen (15) calendar days of the decision.

Section 9. [Administration]

(A) The City Recorder shall be responsible for the administration of this ordinance and may:

(1) Prepare, adopt and make available to the businesses all forms necessary for compliance with this ordinance.

(2) Adopt reasonable rules and regulations relating to any matter pertaining to the administration of this ordinance.

(B) All information and records furnished or secured from any person under the provisions of this ordinance shall be exempt from public disclosure to the extent permitted by ORS Chapter 192. Such information and record shall be confidential and retained only by persons charged with the administration and enforcement of this ordinance.

(C) The City Recorder shall refer each application to the appropriate departments of the City for review. The department heads or their agents shall investigate and determine whether the place of business is in compliance with all applicable City ordinances and is safe, sanitary and suitable for the business for which such application is made.

(D) A license or renewal may be denied or revoked for any of the following causes:

(1) Fraud, misrepresentation or false statement made in the application for a license;

(2) Fraud, misrepresentation or false statement made in the course of carrying on the licensed activity;

- (3) A violation of this ordinance;
- (4) Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- (5) Failure to comply with requirements of any provisions of the City ordinances.

Section 10. [Licenses Not assignable: Fees no refundable]

No license granted or issued under any of the provisions of this Ordinance shall be in any manner assignable or transferable, or authorize any other person than therein named to conduct, carry on, or engage in such business, trade, occupation, profession, or pursuit than therein named and licensed, or authorized the same to be carried on, conducted, or engaged in at any other place than as named in such license receipt. No license fees shall be refunded for any reason whatsoever.

Section 11. [Remedies for Nonpayment]

(A) The amount of any unpaid business license fee, including delinquency charges, shall constitute a debt due to the City. The City Administrator or the City Attorney may collect the amount due by any legal and appropriate means, including the institution of an action or suit in the name of the City against the person liable therefore in any court of competent jurisdiction.

(B) No civil judgment or action taken by the City Administrator or City Attorney under this section shall bar or prevent any prosecution in the justice court, or any other court of competent jurisdiction, for a violation of this ordinance.

Section 12. [Penalties]

(A) A violation of this ordinance shall be punishable by a fine not to exceed \$200 and may also result in suspension or revocation of the business license.

(B) Each violation of a separate provision of this ordinance shall constitute a separate offense, and each day that a violation of this ordinance is committed or permitted to continue shall constitute a separate offense.

(C) The conviction of any person for violation of this ordinance shall not act to relieve such person from payment of any unpaid business fee including delinquent charges, for which such person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City under Section 11.

(D) In the event a provision of this ordinance is violated by a firm or corporation, the firm or corporate officer or officers shall be subject to the penalties imposed by this section.

Section 13. [Repealer]

Ordinance Nos. 213, 257, 307 and 765 are hereby repealed.

Section 14. [Recorders Duties]

The City Recorder is hereby directed, upon its adoption and authentication, to number this ordinance as the next adopted ordinance of the City of Vernonia.

Section 15. [Severability]

The invalidity of a section or subsection of this ordinance shall not affect the validity of the remaining sections or subsections.

Section 16. [Emergency]

Under the provisions of the City of Vernonia Charter of 1998, Chapter VIII, Section 32, the Council finds that it is necessary for the peace, health, and safety of the City and its citizens that this ordinance take effect immediately upon its passage and approval by the Mayor and an emergency is therefore declared to exist.

Adopted this 7 day of June 2010

Signed this _____ day of _____ 2010

Ayes 5 Nays X Abstain X Absent X

Adopted this 7 day of June 2010

Signed this _____ day of _____ 2010

Ayes 5 Nays X Abstain X Absent X

Sally Harrison, Mayor

Attest: _____

Joann M Glass, City Recorder