

Chapter 6.15
BUSINESS LICENSE FEE

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6.15.010 Purpose.

This ordinance is enacted to regulate businesses and to authorize the imposition of a fee to help defray the costs to the City for investigating applications, monitoring businesses and administering this ordinance.

6.15.020 Definitions.

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

- (1) “Apartment house(s)” means a building, portion of a building, or group of building on a parcel of land within the City containing three or more dwelling units which are rented, leased, let or made available for compensation for sleeping or living purposes; provided, however, a building containing three dwelling units shall not be deemed an "apartment house" shall include a hotel dwelling units. The term "apartment house" shall include a hotel or motel, automobile or tourist court, rooming or lodging house, and manufactured home or trailer park. In the case of manufactured homes or trailer parks, the term "dwelling unit" shall mean space or stall.

- (2) “Commercial building rental” means a building, portion of a building, or a group of buildings on a parcel of land within the City containing two or more businesses, provided, however, a building or portion of a building containing two businesses shall not be deemed a "commercial building rental" if the owner of such building conducts a business in a portion of such building.

- (3) “Business” means an enterprise, establishment, store, shop activity, profession or undertaking of any nature conducted, either directly or indirectly for profit or bereft, and which business is being conducted from or within the City of North Plains. The term "business" shall include building contractors as defined by the Oregon Revised Statutes, the ownership, management or operation of an apartment house (three or more units); and any person, firm or corporation owning, leasing or having an interest in three or more residential or commercial, or a combination of three or more residential and commercial dwellings, units or structures which are offered for rent or lease, shall be deemed to be operating a business.
- (4) “Doing, engaging in, or transacting business” includes any act or series of acts performed in the course of pursuit of a business activity.
- (5) “Person” means any individual, partnership, association, firm or corporation.
- (6) “Non-profit” means any business or organization which holds a certificate of exemption from taxes from the Internal Revenue Service.

6.15.030 Non-profit Organizations.

Nothing in this ordinance shall be construed to apply to any non-profit business or organization, including instances where the non-profit business or organization serves as sponsor of an event (except that refundable deposits may be required), but proof of a business's or organizations's non-profit status may be required.

6.15.040 License Required.

- (1) It shall be unlawful for any person to transact or cause to be transacted any business without having first obtained a license therefore from the City Recorder for the current calendar year.
- (2) It is the intention of this ordinance to require that a business license be obtained by the owner, partner or operator of the business and not be 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 principals and of the businesses they represent with this chapter.

6.15.050 Exemptions from License Requirements.

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

- (1) Persons whom the City is prohibiting from licensing or taxing under the constitution or laws of the United States, the constitution or laws of the State of Oregon, or the Charter 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) Representative of public utilities;
 - (e) Garage sales, yard sales and other similar activities. Such exclusion shall not apply, however, if either of the following conditions is met:
 - (i) More than three such sales take place within any calendar year at the same location.
 - (ii) The sale has a duration of more than seventy-two consecutive hours;
 - (f) The sale of personal assets such as a personal automobile, residence, appliance or other items. Such exclusion shall not apply when such sales are conducted on a regular and continuing basis. That will be assumed to be the case if an individual or family sells its personal residence more than twice or its personal automobile more than four times in any given calendar year. Other items shall be determined by the City Council on the basis of reasonableness on a case-by-case basis.
 - (g) Land owners performing general contracting services on their own property in the City.
 - (h) Subcontractors working under a general contractor who has a valid business license.

- (3) Persons whose only business transaction in the City consists of the following:
- (a) 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;
 - (b) The sale of personal property acquired for household or other personal use by the seller;
 - (c) 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;
 - (d) The renting or leasing of residential real property, provided that the beneficial owner of such real property does not rent or lease more than three rental properties or three dwelling units within the City, and that such renting or leasing is unrelated to any other licensed business or such beneficial owner.
 - (e) The raising, harvesting and selling of the person's own crops, of the feeding, breeding, management and sale of the person's own livestock, poultry, fur bearing animals or honey bees, or sale of agricultural, horticultural or animal husbandry activity carried on by any person on said person's own behalf and not for others, or dairying and sale of dairy products to processors. This exemption does not apply if, in addition to the farm activities described in this paragraph, a person does any processing of said person's own farm products which change their character or form or said person's business includes the handling, preparation, storage, processing or marketing of farm products raised or produced by others, or the processing of milk or milk products, whether produced by said person or by others for retail or wholesale distribution.
 - (f) 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 14 days in any calendar year.
- (4) Persons whose gross receipts from all business both within and without the City amount to less than \$2500.00 in any one calendar year, provided that any such person shall file with the Bureau upon demand a statement indicating that he estimates his gross receipts for such year to be less than \$2500.00 or indicating the amount thereof.

6.15.060 Multiple Businesses or Premises.

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

6.15.070 Rate.

The business license fee imposed by this ordinance shall be established by resolution of the Council.

6.15.080 License Year and Payment.

- (1) The business license year shall be January 1st to December 31st.
- (2) The business license fee shall be paid annually in advance of the business license year; provided, however, (if) any person, firm or corporation begins engaging in business after the beginning of the business license year, the business license fee shall be paid in advance on a prorated basis as of the beginning of the quarterly period during which such activity begins.
- (3) Quarterly business licenses may be obtained to cover the period during which a seasonal business licenses operates.
- (4) The City Recorder may, at his/her discretion, authorize payment of the business license fee by a person liable therefore on a quarterly prorated basis.

6.15.090 Delinquency Charge.

- (1) Excepting for the payment of a business license fee as set forth in Section 6.15.080(2) above, the business license fee shall be deemed delinquent if not paid by February 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 tax is not paid within 30 days after commencement of the business activity.
- (2) Whenever the business license fee is not paid on or before the delinquency date, a delinquency charge equal to 20 percent of the original business license fee due and payable shall be added for each 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.

- (3) 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.

6.15.100 Issuance and Display of Receipt.

Upon approval of the license application and payment of the business license fee, a person shall be issued a license by the City for such payment. The license shall be kept posted in a conspicuous place on the business premises at all times.

6.15.110 Administration.

- (1) The City Recorder shall be responsible for the administration of this ordinance. He or she may:
 - (a) Adopt reasonable rules and regulations relating to any matter pertaining to the administration of this ordinance.
 - (b) Prepare, adopt and make available to the businesses all forms necessary for compliance with this ordinance.
- (2) 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.
- (3) 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 City Codes and is safe, sanitary and suitable for the business for which such application is made.
- (4) A license or renewal may be denied for any of the following causes:
 - (a) Fraud, misrepresentation or false statement made in the application for a license;
 - (b) Fraud, misrepresentation or false statement made in the course of carrying on the licensed activity;
 - (c) A violation of this ordinance;

- (d) Conduction 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.
 - (e) Failure to comply with requirements of any provisions of the City Code.
- (5) Upon a favorable recommendation from each department, the City Recorder shall issue the license. If any department determined that the application should be denied, the City Recorder shall notify the applicant of the denial and the reasons for the denial.

6.15.120 Remedies for Nonpayment.

- (1) The amount of any unpaid business license fee, including delinquency charges, shall constitute a debt due the City. The City Attorney 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 therefore in any court of competent jurisdiction.
- (2) No civil judgement, or action taken by the City Attorney under this section, shall bar or prevent any prosecution in the municipal court for a violation of this ordinance.

6.15.130 Penalties.

- (1) A violation of this ordinance shall be punishable by a fine not to exceed \$200.00.
- (2) 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 offense.
- (3) The conviction of any person for violation of this ordinance shall not act to relieve such person from payment of any unpaid business tax 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 6.15.110.
- (4) 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.

(ORD. 239, June 19, 1995; repeals Ord. 201, January 21, 1992; repeals Ord. 178, June 19, 1989.)