



CITY OF
GEARHART

Staff Report

For City Council Meeting - 1/4/2023

Subject - New Business - Discussion - City Business Licenses

Synopsis: City Business Licenses currently run on a fiscal year basis (July 1 - June 30). The cost is \$40 for sole proprietorships and/or the owner, and \$12.50 for each employee. However, it was recently discovered that, per the City code, City Business Licenses run on an annual basis (January 1 - December 31). After extensive research, staff is unable to pinpoint when or why the timeline changed. We do know licenses have been issued on a fiscal year basis for at least 20 years.

Recommended Motion: At the Mayor's request, a Council consensus is recommended for staff to reinstate the correct city license timeline per the City code.

Legal Analysis: An alternative would be for staff to prepare an ordinance to amend the code citing a Business License is issued at the start of the fiscal year.

Financial Analysis: Should Council motion for a consensus to honor the annual timeline, license holders will receive a 6 month credit extending their licenses through December 31, 2023. Should Council request an ordinance to amend the code, the ordinance could be written and presented twice well before the June 30, 2023 fiscal year expiration date.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be the name 'Chad', written in a cursive style.

Chad

CHAPTER 110: BUSINESS LICENSES

Section

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- 110.02 Definitions
- 110.03 Business license required
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- 110.99 Penalty

§ 110.01 PURPOSE AND SCOPE.

The business license fees imposed by the terms of this chapter are for revenue purposes only. Neither the acceptance of the prescribed fee nor the issuance of the applicable license shall be construed to constitute a regulation of any business activity or permit to engage in any activity otherwise prohibited by law or ordinance, or a waiver of any regulatory licensing requirements imposed by any other ordinance of the city.

§ 110.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Any activity carried on with the intent that a profit be realized therefrom, and that the profit, if any, inure to the benefit of the owner or owners of the activity.

EXPENSE. The cost of goods sold, the expense of services rendered, and all other expenses or disbursements, accrued or otherwise, ordinarily incidental to the operation of a business.

PROFIT. The excess of gross receipts over expense.

TRANSACTING BUSINESS. Any act or series of acts performed in the course or pursuit of a business activity. However, the rental of a dwelling unit shall not constitute an act in the pursuit of a business activity unless it is part of the operation of an apartment house, mobile home park, motel or hotel, or similar high-density or commercial rental activity, with three or more dwelling units.

§ 110.03 BUSINESS LICENSE REQUIRED.

No person, for himself or herself or as agent or employee of another, shall conduct or transact business based within the city unless:

(A) The business has been duly licensed within this chapter; and

(B) The license is valid at the time of the transaction.

Penalty, see § 110.99

§ 110.04 ISSUANCE.

(A) Upon receipt of an application duly signed and executed as prescribed in § 110.06, together with the required fee, the City Recorder shall issue a business license to any applicant desiring to transact or conduct a lawful business based within the city.

(B) Licenses so issued shall be valid until December 31 next following the date of issuance of the license.

§ 110.05 POSTING OF LICENSE.

At all times after the issuance of the license, the licensee shall cause it to be posted in a conspicuous place upon the business premises, available for inspection by the public and by employees and prospective employees of the business.

§ 110.06 APPLICATIONS.

(A) Application for business licenses shall be submitted on forms to be provided by the City Recorder. Every application shall be signed by the owner or his or her duly authorized agent and shall contain the following information:

(1) Name of person or persons owning business;

- (2) Assumed business name, if any;
- (3) Address of business premises and mailing address, if different;
- (4) Nature of business;
- (5) Number of employees as of date of application, if applicable; and

(6) Where the business includes activities classifiable in two or more categories, the primary or predominant activity.

(B) License fees shall be computed on the basis of information contained in the application, and no person shall knowingly sign or submit a business license application containing false information. Penalty, see § 110.99

§ 110.07 CONTENTS OF LICENSES.

Licenses shall be issued to the applicant in the name of the business to be licensed and shall designate the nature of the business, the address of the premises, and the date of issuance.

§ 110.08 TWO OR MORE BUSINESS PREMISES; TWO OR MORE BUSINESSES ON SAME PREMISES.

The conducting of a business or businesses at two or more locations shall, for the purposes hereof, be deemed to be separate businesses, and each thereof shall be subject to the license tax herein provided for. If two or more differently classified but related businesses are carried on in the same premises by the same owners, one license issued in the name of the business to which the premises are primarily appropriated and based upon the total number of employees or other units on the whole premises shall be sufficient for all the activities; provided any business activity lease under concession to or owned wholly or in part by a different person or persons on the same premises must be separately licensed. In determining whether different activities on the same premises are related to the primary use within the meaning of this section, normal and ordinary customs and usages of businesses of like nature shall be considered.

§ 110.09 BUSINESS LICENSE TERM AND FEE.

(A) The business license term shall be the 12-month period beginning on January 1 of each year and ending December 31 of the calendar year next following.

(B) If any business subject to the provisions of this chapter comes into existence, or for the first time commences its operations within the city at any time after January 1 of any business license period, the license fee payable in connection with that business for the current business license period shall be prorated as of the beginning date of the quarterly period during which the activity begins. The quarterly periods, for the purposes hereof, shall begin on the first days of January, April, July, and October of each year.

(C) (1) The license fee for any business taxes hereunder shall be established by general resolution of the City Council.

(2) For the purpose of this division (C), the following definition shall apply unless the context clearly indicates or requires a different meaning.

EMPLOYEE. Shall mean and include:

1. A person having no ownership interest in the business other than the ownership of shares in a corporate business and who is regularly employed for 20 hours a week or more by and under the supervision and control of the owner or owners of the business or their representative in the course of the business activities; or

2. A person having an ownership interest in the business, who actively works in and for the business on a full-time basis.

§ 110.10 EVIDENCE OF DOING BUSINESS.

In the trial of any alleged violation of this chapter, evidence that the defendant made a public representation by way of advertisement by newspaper, radio, television, or similar media, or by signs conspicuously displayed for public view, that the business was being conducted, expressly or implied, offering to sell goods or services in the course of the business to the public or any segment thereof, shall constitute prima facie evidence that the defendant was transacting the business suggested by the public representation within the city on the date or dates during which the representations were made.

§ 110.99 PENALTY.

(A) Any person violating any provisions of this chapter shall, upon conviction thereof, be punished by a fine of not more than \$100.

(B) Every full business day during which any business activity continues to be conducted in violation of this chapter shall be deemed a separate offense.

(C) No license shall be issued to any person hereunder if the person has, previous to making application therefore, conducted a business within the city while this chapter was in effect without a current, valid license issued hereunder, unless the person pays an additional amount equal to the license fee for the period during which the business was thus conducted.

(D) The remedy specified in divisions (A) and (C) above shall not be deemed exclusive and, at the option of the city, amounts due and payable hereunder by way of business license fees may be collected from the owner or owners of the business involved by action of law in any court of competent jurisdiction in the state.

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