

ORDINANCE NO. 498

AN ORDINANCE PROVIDING FOR LICENSES FOR TRADES, SHOPS, OCCUPATIONS, PROFESSIONS, AND BUSINESSES FOR THE PURPOSE OF REVENUE AND REGULATION; PROVIDING FOR THE METHOD OF ISSUING LICENSES; PROVIDING PENALTIES FOR VIOLATIONS; AND REPEALING ORDINANCE NO. 372.

WHEREAS, the city of Madras has engaged the League of Oregon Cities to update and improve the ordinances of the city of Madras, and pursuant to that review recommended repealing Ordinance No. 372.

NOW THEREFORE, the city of Madras ordains as follows:

Section 1. Definitions. For the purpose of licensing businesses in the city of Madras, Oregon, the following definitions apply:

a) Amusement Device. Any game, device, or machine, kept, operated, or played in any place of business or other place where the public is invited or permitted to attend and which may be played by the insertion of money.

b) Application. A new application, a renewal of an application, or a transfer of license application.

c) Business. Professions, trades, occupations, shops, and every kind of calling carried on for profit or livelihood.

d) Exhibition. The display of goods or materials for which an admission fee is charged.

e) Flea Market. All general sales, open to the public and conducted in any commercial zone within the city, for the purpose of disposing of personal property. These general sales include, but are not limited to, sales entitled "flea markets," "bazaars," and "rummage sales." "Flea market" also includes situations where booths, tables, or spaces are sold or rented for the purpose of conducting sales of personal property. For the purpose of the definition of "flea market," personal property means property which is owned by the individual conducting the sale, is purchased for resale, or is obtained on consignment.

f) Garage Sale. Any public sale of new or used goods within the city limits by an individual or group on individual's private property, when the individual or group of individuals is not licensed as secondhand or junk dealer, and when the property from which the sale is to be conducted is not within a zone permitting commercial business or otherwise permitted under the provisions of this ordinance.

g) General Contractor. Any person who undertakes or offers to undertake, for consideration, to furnish all of the material, or labor, or both, that are considered necessary to construct, alter, repair, or add to any building or structure, including commercial, residential, or heavy construction work. State license requirement

verification must be supplied with application.

h) Non-Profit. Any business or organization which holds a certificate of exemption from taxes from the Internal Revenue Service.

i) Non-Resident Proprietors. A business located outside the city, but conducting business transactions within the city.

j) Persons. All domestic and foreign corporations, associations, syndicates, partnerships of every kind, joint ventures, societies, and individuals transacting and carrying on any business in the city.

k) Real Estate Business. An enterprise or undertaking of any nature that deals either directly or indirectly with leaseholds or any interest or estate in land, or both, whether the land is situated in this state or elsewhere.

l) Any person currently residing within the Madras Urban Growth Boundary conducting seasonal business on a rented site, i.e., vacant lot, parking lot, etc., within the city limits.

m) Self-Employed. A person who serves as his or her own employer, who is not a general, residential building, or subcontractor, and who employs no other persons.

n) Subcontractor. A person who contracts on predetermined terms to be responsible for the performance of all or part of a job of construction in accordance with established specifications or plans.

o) Transient Merchant. Any person, firm, or corporation, that is a non-resident proprietor, that sells or offers to sell, other than at auction, any merchandise in any building, store, room, or place of business occupied by the person, firm, or corporation within the city with the intention of doing so for a short period of time and without the intention of permanently doing so in the regular course of business.

p) Vending Machine. Any machine from which foods, drink, or cigarettes are received in return for the insertion of money.

Section 2. Purpose. This ordinance is enacted to provide revenue to pay for the expenses required to issue licenses, to provide revenue to pay for municipal services to business, and to regulate businesses.

Section 3. 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 organization's non-profit stature may be required.

Section 4. Agents of Non-Resident Proprietors. The agent or agents of a non-resident proprietor, engaged in any business for which a license is required by this ordinance, shall be liable for the payment of fees established by the council, and for the penalties for failure to pay the fees or to comply with the provisions of this ordinance as if the agent or agents were themselves proprietors.

Section 5. License Required. It shall be unlawful for any person to transact or cause to be transacted any business without having first obtained a license therefor from the city administrator or designee for the current fiscal year.

Section 6. Duration of License. All business licenses under this ordinance are annual and shall expire on June 30. The required application and license fee are due on July 1 of each year for the fiscal year commencing with that date and are delinquent on August 1.

Section 7. License Fees.

1) All trades, shops, businesses, occupations and professions carried on in the city and not licensed and taxed by other provisions of this or other ordinances of the city, shall be licensed and the amount to be paid as license fees shall be established by resolution of the council.

2) Garage sales may be conducted without obtaining a business license. However, no household may conduct more than two garage sales in a one-year period, and no sale may last longer than five (5) days.

3) A license fee is not delinquent until after the applicant has commenced business within the city during the fiscal year without paying the required license fee.

4) When an applicant for a business license has not engaged in business during the calendar year until after December 31, the required fee for the license shall be reduced by one-half. If the applicant had engaged in the same or similar business during the previous fiscal year, there will be no reduction in the required fee.

5) Where the applicant for a business license is operating more than one trade, shop, business, occupation or profession from the same location, each trade, shop, business, occupation or profession must be separately licensed, but the applicant need pay only the highest license fee.

Section 8. License Application.

1) All business licenses required under this ordinance or any other ordinance shall be issued by the city administrator or designee. The application for any license shall contain the following information:

(a) The description of the business carried on within the city.

- (b) The name of the applicant, with a statement of all persons having an interest in the business, either as proprietors or owners of the business.
- (c) The location in which the business is conducted.
- (d) Proof of the applicant's possession of any licenses, certificates, or registrations that are required by state or federal laws to conduct the type of business listed on the application.
- (e) The date of application.
- (f) The average number of persons regularly employed by the business at the time the application for license is made. When practicable, this average shall be computed by adding all regular employees listed on the business's social security reports during the year and dividing this total by the number of reports.
- (g) The amount of money tendered with the application.
- (h) Any other information necessary to enable the city to review the application under subsection 2) and to determine the appropriate fee as established by resolution of the council.

2) The city administrator or designee shall refer each application to the appropriate departments of the city for review. Approval or denial of the application shall be based on consideration of all available evidence as to whether the proposed business will meet the requirements of the city charter and ordinances. The license may not be granted if:

- (a) The activity or device to be licensed would not comply with city ordinances or state or federal laws.
- (b) The licensed activity or device would endanger property or the public's health or safety.
- (c) The applicant's violation of law or ordinance represents a reasonable doubt about the applicant's ability to perform the licensed activity without endangering property or the public's health or safety.
- (d) The applicant fails to supply the information required, or submits misleading or false information, or submitted misleading or false information on a previous application.
- (e) The premises to be used by the business do not fully comply with all city ordinances and requirements.

3) In the event of the transfer of any business, the license shall be transferred using a form provided by the city administrator or designee, signed by the person making the transfer, and accompanied with a transfer fee established by resolution of the council.

4) Upon a favorable recommendation from each department, the city administrator or designee shall issue the license. If any department determines that the application should be denied, the city administrator or designee shall notify the applicant of the denial and the reasons for denial.

Section 9. Unlawful Acts. It is unlawful for any person to wilfully make false or misleading statements to the city administrator or designee for the purpose of determining the amount of a license fee, or to fail to comply with any of the provisions of

this ordinance, or to fail to pay any required license fee or penalty.

Section 10. Delinquent License Fees. In the event that any person required to obtain a license fails to obtain the license or pay the required fee before it becomes delinquent, the city administrator or designee shall collect the fee payment with a penalty of ten percent (10%) of the fee payment for each calendar month, or fraction of a month, that the fee payment is delinquent.

Section 11. Fee Amounts. Nothing contained in this ordinance may be construed as vesting any right in a license or a contract obligation on the part of the city as to the amount of the fee. Other taxes or fees and the fees provided by council resolution may be increased, decreased, or created by the city. Any business may be reclassified at any time and other fees or taxes may be levied. No person who has received a license and has paid the fee required under this ordinance shall be entitled to any refund.

Section 12. Violations. The conviction of a person for violation of any provision of this ordinance may not serve to relieve the person from paying the fee or penalty for which the person is liable. The payment of any fee may not bar or prevent legal prosecution of a complaint for the violation of any provision of this ordinance.

Section 13. Revocation of License. Upon determination that a licensed business, activity, or device within the city violates city ordinances or state or federal laws, or that the application contains false or misleading information, the city administrator or designee may revoke the license upon thirty (30) days' notice in writing to the licensee, with the notice delivered to the licensee's establishment, or the licensee's business address. The notice shall state the reasons for the revocation.

Section 14. Suspension of License. Upon determining that a licensed business, activity, or device presents an immediate danger to persons or property, the recorder may suspend the license. The suspension takes effect upon the licensee's receipt of the suspension notice, or upon delivery of the notice to the establishment or the licensee's business address. The notice shall state the reason for the suspension. The city administrator or designee may continue a suspension as long as the reason for the suspension exists, or until a determination on an appeal regarding the suspension is made.

Section 15. Appeal.

1) Any person whose application for a license has been denied, or a licensee whose license has been denied renewal, has been suspended or has been revoked, may, within thirty (30) days after the notice of denial, suspension, or revocation is mailed, appeal in writing to the council. The appeal shall state:

- (a) The name and address of the appellant.
- (b) The nature of the determination being appealed.

(c) The reason the determination is incorrect.

(d) What the correct determination of the appeal should be.

2) An appellant who fails to file a statement within the time permitted waives all objections, and relinquishes all rights to appeal. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. At the hearing, the appellant may present testimony and oral argument. The decision of the council is final.

Section 16. Penalties. Violation of, or failure to comply with any provision of this ordinance is punishable upon conviction by a fine not to exceed \$250.

Section 17. Repeal. Ordinance No. 372, enacted August 8, 1978, regulating business licensing, is hereby repealed. Ordinance No. 372 shall remain in full force to authorize the prosecution, conviction, and punishment of a person who violates Ordinance No. 372 prior to the effective date of this ordinance.

Section 18. Severability. The sections of this ordinance are severable. The invalidity of a section does not affect the validity of the remaining sections.

Section 19. Effective Date. This ordinance shall take effect thirty (30) days after its enactment.

Passed by the council and approved by the mayor September 24, 1991.