

7.700 BUSINESS LICENSES

7.705 Short Title. The provisions of Sections 7.700 to 7.790 shall be known as the Business License Ordinance.

7.710 Purpose

- (1) Emergency responders from the Bend Fire Department are better able to respond effectively and safely to emergency situations at Bend businesses when they have information about what type of business and contents of the structure are located in business establishments in Bend. Building Code compliance, Planning Code compliance, Fire Code compliance and Wastewater discharge compliance are enhanced by obtaining data from business license applications about structures where businesses are located. Business demographic information is also necessary to promote economic development. This ordinance is designed to obtain that information. The public health, safety and welfare are benefited by this business licensing ordinance.
- (2) It is necessary that fees for engaging in business in Bend be collected for securing revenue to assist in defraying the cost of police and fire protection, and other necessary municipal services. The fee required by this ordinance shall be in addition to general ad valorem taxes now or hereafter levied under law and the license shall be in addition to licenses prescribed in other parts of the Bend Code and fees resolutions, or licenses required by other city, county, local, state, and federal laws.

7.715 Definitions. In Bend Code Sections 7.700 to 7.790, a “business” is a trade or business activity activity, regardless of the form under which the activity is conducted (such as sole proprietor; partnership; corporation; Subchapter S corporation; limited liability company; limited liability partnership and the like), that is required under the US Internal Revenue Code to file an income tax return. The following additional definitions apply:

- (1) "For profit business" means any trade, profession, occupation or pursuit, the purpose of which is to make a profit, whether or not a profit is actually made, as defined by the US Internal Revenue Code, as amended from time to time.
- (2) “Non-profit business” means any business that qualifies as a non-profit business under the US Internal Revenue Code, as amended from time to time.
- (3) “Public utility” means any business regulated by the Oregon Public Utility Commission or federal agency, such as the Federal Communications Commission, that delivers water, sewer, gas, electric, cable television, cable modem, satellite television, satellite modem, or telecommunications services within the City of Bend.

(4) "Exempt business" means:

- (a) Any person transacting and carrying on any business within the City which is exempt from a license fee or tax or regulation by virtue of the US Constitution, laws of the United States, Oregon Constitution, or laws of the State of Oregon;
- (b) Churches and governmental agencies;
- (c) A service business operated by a person under the age of 18, such as a lawn mowing business, a newspaper delivery business, a lemonade stand, and the like.
- (d) Independent contractors (such as medical care providers, beauticians, and the like) that work in an office building or building of a business that has applied for and obtained a business license that covers the entire building are not required to obtain an individual license. Where the owner of the building has not obtained a business license to cover such independent contractor, the independent contractor is required to obtain a license under this ordinance.

7.720 Requirement to Obtain Business License; Pay Application Fee; and Apply for Exemption.

- (1) Persons carrying on or transacting any Business, Non-profit Business or Public Utility as defined in section 7.715(1), (2) or (3), where physical business activity is undertaken within the City of Bend, shall be required to apply for and obtain a business license, unless such person is an Exempt Business, or the business is not required to obtain a license under another provision of this ordinance. A business that believes it is exempt from obtaining a business license shall apply for an exemption on a form provided by the city.
- (2) Non-profit businesses, as defined in Section 7.715(2) must obtain a license, but shall pay a reduced fee as established by the current City of Bend Fee Resolution.
- (3) Where a business is owned by a corporation or operates under a franchise, it shall be the responsibility of the local business manager to obtain the required license.

(4) The following provisions apply to the obligation to obtain a business license:

- (a) Any business that conducts physical activities in the City of Bend, whether or not such business operates from a physical structure or location within the City of Bend, is subject to this ordinance. Businesses that have their primary business location outside the City of Bend, but that conduct business activity within the City of Bend (including, but not limited to delivery businesses, repair businesses, and the like) are required to be licensed under this ordinance.
- (b) If two or more related businesses are carried on at the same premises by the same owners, one license issued in the name of the business for which the premises is primarily used shall be sufficient for all such activities.
- (c) Electronic businesses, including internet businesses with a physical location in the City of Bend, shall be required to be licensed, unless exempt by another provision of this ordinance.
- (d) Where:
 - (1) A business is leased, under concession to, or owned wholly or in part by a different person or persons on the same premises, such business must be separately licensed, unless exempted by this ordinance. (For example, in the case where a business allows a food or other concession to be operated on the premises, and where the concession is owned by a separate entity, the concession is a separate business activity, requiring a separate license.)
 - (2) A single business occupies more than one building and the separate building occupancy is an adjunct to the same business activity (such as a retail or wholesale business that operates a warehouse in a building separate from the central business office or retail sales location), then only one license shall be required; but the business license application shall list all buildings where business activity occurs, providing necessary detail as to the activity conducted in each separate building.
- (e) For the purpose of this ordinance, no employee of a business whose income is based solely on an hourly, daily, weekly, monthly or annual wage, or salary shall be considered a person transacting and carrying on a business. The intention of this ordinance is that all business license fees assessed by this ordinance shall be borne by the employer or proprietor for the privilege of doing business.

- (f) Charitable organizations that have no physical location other than a post office box are not required to obtain a license under this ordinance.
- (g) Activities that qualify as hobbies or passive holding of property for investment purposes under the US Internal revenue Code are not required to obtain a license under this ordinance.

7.725 License Duration and Transfer of Business or Business Location.

- (1) New licenses shall be valid from the date of issuance to the end of the following 12th month, and shall be renewable annually in the same month of each following year. The license fee shall not be pro-rated.
- (2) If ownership of a business is transferred during the year, the new owner shall apply for a new business license and pay a separate license fee in the amount established by the City of Bend Fee Resolution.
- (3) Businesses that change physical location or business name shall record the change of address or business name with the city, but shall not be required to pay a new fee for the current year.

7.730 Application for License. Each person wishing to engage in a new business shall apply for a license to carry on business for the license year. Suitable application forms will be furnished by the City. At the time of filing, the applicant shall pay the license fee required. The application shall be filed with the City Recorder and shall contain, at a minimum:

- (1) A description of the nature of the Business activity, Non-Profit Business activity or Utility to be engaged in;
- (2) The date that business operations commenced;
- (3) The name and address of the applicant; if a partnership, the names and addresses of all partners; if a business is a corporation, its name and the address of the home office, the name and address of the designated agent in the State if a foreign corporation, and the name and address of the local agent or representative who will be in charge of the business in the City;
- (4) The addresses where the business will be located or have its City office and all branch, storefront, warehouse and any other associated locations;

- (5) The date of application.
- (6) The North American Industrial Coding System (“NAICS”) (formerly SIC) code number;
- (7) A statement of the number of full time, part time or seasonal employees of the business;
- (8) Emergency contact information;
- (9) Any other information the Recorder or Council determines that the application should contain;
- (10) The signature of the applicant or agent making the application;
- (11) If the applicant is a foreign corporation or a non-resident of this State, and no permanent business location is proposed to be created in the City, the applicant shall appoint a local person, acceptable to the City Manager, as an agent for accepting service of a process, notice, or demand required or permitted service of a process, notice or demand required or permitted by law to be served upon the applicant. The applicant shall submit with the application, the agent's acknowledged consent to acceptance of said service on the form provided by the City.

7.735 Application Review and Effect of Issuance of License. The City Recorder shall review and issue licenses. Issuance of a license is not evidence that the applicant is in compliance with any other provision of law.

7.740 Issuance of License.

- (1) After receipt of necessary license information and the application fee, the City Recorder shall issue the license.
- (2) No license shall be issued to a person if the person has, prior to making application, conducted a business within the City while this ordinance was in effect without a current, valid license issued under this ordinance, unless an additional amount equal to the license fee for the period during which the business was thus conducted is paid. In addition, civil penalties may be assessed as provided in this ordinance.

7.745 Denial of Application; Incomplete applications. The City Recorder will only deny a license where the business activity is obviously illegal. If the City Recorder determines that the application is materially incomplete, a license will be issued upon furnishing a complete application together with an additional administrative fee established by the fee resolution.

7.750 License Renewal. The application for renewal of a business license shall be made to the City Recorder prior to the expiration date. Failure to timely submit an application is a Class “A” Civil Infraction, subject to the penalty provisions of Section 7.790.

7.755 Revocation of License. The City of Bend will revoke a business license where a licensed business is operating illegally. Once issued, all businesses must comply with all city, state and federal laws, and the existence of a City of Bend business license does not authorize a business to operate in violation of any other laws.

7.760 Continuing requirement for Other Licenses. Any business or profession required to be licensed by any other provision of city, state, county, local or federal law shall continue to be responsible for obtaining and maintaining such licensure. Nothing in this ordinance excuses a business from obtaining all other necessary licenses, and the issuance of a business license under this ordinance shall not excuse a licensee from compliance with any other law.

7.765 Appeal. An applicant whose license is denied, or who contests any other ruling of the City Recorder may file an appeal with the Bend Municipal Court. The Court shall establish procedures for processing and hearing such appeals.

7.770 Posting of License. All businesses based in buildings whose primary purpose is commercial, and all businesses based in vehicles must display the license in public view at all times. For businesses that utilize multiple vehicles, a photocopy of the license shall be required to be on display in public view in each vehicle. Businesses based in buildings that are primarily residential need not publicly display the license, but must keep it available for inspection upon reasonable request.

7.775 Business License Fee. The fees for all licenses required under this ordinance shall be established by the City of Bend Fee Resolution, and may be changed from time to time. Any change in the license fee resolution shall apply to a licensee at the time of initial issuance or at the next renewal, but shall not apply retroactively to a license already in effect.

7.780 Effective Date; Waiver of Penalties During the First 18 months. This ordinance shall be effective 30 days after adoption by the City Council. During the first 18 months following the effective date, no penalties shall be assessed under Section 7.790; however, application fees shall be due upon the effective date of the ordinance, and any unpaid application fee shall remain due and payable for the first 12 months, and thereafter. Penalties shall not be assessed until the City of Bend provides two notices to the business that the license is required, and 45 days elapse after the second notification is received. A first notice shall be sufficient if sent by first class mail to the owner of the business, or agent of such owner; and a second notice shall be sufficient if sent by certified mail, return receipt requested. If the notices are sent to an address where the owner of the business or agent of such owner receives mail, it shall not be a defense that the notice was not actually received. The grace period for assessment of penalties shall not affect the obligation of the business to pay application fees from the effective date of this ordinance.

7.785 Changes to Application Requirements or Fee Changes. Amendment of the fee resolution to change the amount of fees to be assessed or information to be supplied on the application form shall require public notice and two prior public hearings.

7.790 Violations and Civil Penalties.

- (1) Violation of any provision of this ordinance shall be a Class A Civil Infraction, subject to a fine not to exceed \$500 per violation.
- (2) In addition to violations of the specific provisions of this ordinance, the following acts shall constitute a Class A Civil Infraction:
 - (a) Operating a business without obtaining a license as required by this ordinance;
 - (b) Failure to make timely application for a license or license exemption;
 - (c) Making a materially false statement to the City of Bend in connection with any requirement of this ordinance;
 - (d) Failure to provide information required by this ordinance;
- (3) Assessment of a fine under this ordinance shall be a remedy of the city in addition to any other remedy. The statute of limitations on a civil penalty shall not begin to run until the city discovers that a violation of the ordinance has occurred. Every year that a business operates without a required license shall be a separate violation. The city shall have a civil claim against any business that fails to pay a fee required by this ordinance, and the city reserves any other remedies available under law.

[Section 7.700 to 7.790 added by Ord NS-1995, adopted January 18, 2006]