

CITY OF DUNDEE
ORDINANCE No. 439-2006

AN ORDINANCE OF THE CITY OF DUNDEE ADOPTING NEW BUSINESS LICENSE REGULATIONS, AND REPEALING ORDINANCE NO. 362 (1999).

WHEREAS, the City of Dundee wishes to eliminate unnecessary provisions from its current business license regulations relating to the operation of specific types of businesses within the City and to simplify its remaining business license regulations to create a straight forward non-regulatory licensing vehicle for the collection of limited revenue for general municipal purposes;

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF DUNDEE DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 362, April 5, 1999, is hereby repealed.

Section 2. The following new provisions are hereby enacted as the City's business license regulations.

Sections:

3. Purpose and Scope.
4. Definitions.
5. License Required; Exemptions.
6. Business License Fees Imposed.
7. Businesses not Operating from a Facility Within the City; Multiple Businesses at Same Location; Branch Offices; Professional Offices.
8. Application Procedure; License Transfer.
9. Falsifying Application Information – Failure to Comply.
10. Violation does not Exempt Payment of Fee; Attorneys Fees.
11. Severability.
12. Effective date.

Section 3. Purpose and Scope.

A. This Ordinance is enacted to provide revenue for municipal purposes only and to provide revenue to pay for the necessary expenses required to administer the City's business license program.

B. The license fees authorized by this Ordinance shall be independent and separate from any license or permit fees now or hereafter required of any person to engage in any business by the Dundee City Council or other governmental or regulatory body. All such businesses remain subject to the regulatory provisions of any City ordinances or other regulations now or hereafter in effect, and the business engaged therein is liable to the payment of any license or other fees therein established or authorized.

C. Nothing in this Ordinance shall be construed to apply to any person transacting and carrying on any business within the City which is exempt from taxation or regulation by virtue of the Constitutions or laws either of the United States or Oregon.

D. The levy or collection of a license fee upon any business shall not be construed to be a license or permit to the person or business engaged therein to engage in activity or business to the extent it is deemed to be unlawful by the laws of the State of Oregon, the United States or the City.

Section 4. Definitions.

A. As used in this Ordinance:

- 1) "Business" means profession, trade, occupation, and every other kind of calling carried on for profit or livelihood.
- 2) "Employee" means any person working for, within or under the auspices of a business, other than a bona fide independent contractor or leased employee, including common law and statutory wage earning, commission and salaried employees; executive and common employees; agents; sales representatives; sole proprietors; partners; corporate officers and any and all persons associated directly with the business, whether full or part time.
- 3) "Exemption certificate" means the document issued by the City in lieu of a business license to businesses, occupations and activities qualifying under the provisions of Section 5 of this Ordinance.
- 4) "License" or "business license" means the document issued by the City granting the privilege to carry on a particular business or pursue a certain occupation within the City.
- 5) "Person" means 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.
- 6) "Transfer" means to transfer the name or ownership of a business, but does not include a change in business location.

B. The agent or agents of a nonresident person engaged in a business for which a license is required shall be liable for the payment of the license fee on the business and for the penalties for failure to pay the fee or to comply with the provisions of this Ordinance to the same extent and with the like effect as if such agent or agents were themselves persons engaged in business for which a license is required.

Section 5. License and Payment Required; Exemptions; License Year.

A. Except as provided in Section 3(C) above, any person operating or carrying on any trade, business, profession or calling in the city, not otherwise classified in this Ordinance or not licensed under any other ordinance of the City shall obtain a license and pay the required fee.

B. In lieu of the business license fee described in this Ordinance, an exemption certificate shall be issued without charge to the businesses and activities described below. All exempt businesses or activities must complete and file an annual renewal exemption certificate application with the City. Businesses and activities qualified under this provision include:

1. Religious, educational and charitable organizations specifically exempt from taxation under the Federal Internal Revenue Code;
2. Businesses franchised by and paying a franchise fee to the city;
3. Businesses otherwise exempt from the payment of municipal license fees pursuant to Oregon or Federal law;
4. Suppliers and those engaged solely in wholesale sales to local businesses;
5. Any person involved in the home delivery of newspapers, groceries, or other goods purchased outside the City;
6. Any natural person under the age of eighteen (18) operating a business without any employees with an annual gross income of less than fifteen hundred dollars (\$1500.00);
7. Peddlers, solicitors, temporary merchants or street vendors, as defined by City Ordinance. A permit is required under the Transient Merchant Ordinance; and
8. Fairs, festivals, and public entertainment events by non-profit organizations. As used in this Ordinance, a "non-profit organization" means an organization with tax exempt status as granted under applicable federal laws.

C. License Year

1. For businesses licensed before the effective date of this Ordinance, the license year shall commence on January 1, 2006 and shall be renewable on or before that date annually thereafter. For businesses applying for an initial business license or certificate after said date, the license year shall commence on the date the license is approved by the City and shall be renewed annually on or before January 1st of each succeeding year thereafter.
2. The license fee shall be due and payable on the first day of January and shall be deemed to be delinquent if not paid by February 1st of that year. License fees are not refundable nor subject to proration.

Section 6. License Fee Imposed.

Each business operating within the city shall pay to the City on or before the 15th of January of each calendar year, a business license fee as the same is established by resolution of the Council.

Section 7. Businesses not Operating from a Facility Within the City; Multiple Businesses at Same Location; Branch Offices; Professional Offices.

A. Except as provided in Section 3(C) above, all persons doing business within the city are subject to the business license provisions of this Ordinance regardless of the location of the facility used as the basis for conducting such business.

B. The annual business license fee for persons doing business within the city from locations outside the city is the same as for persons who do business from locations within the city.

C. If more than one business takes place at the same location and is operated under the same ownership, but is operated under more than one business name, one application may be filed provided each business is clearly identified and all relevant information is included in the unified application. However, each business shall be liable for and pay a separate business license fee.

D. Each branch establishment of a business or location of a business conducted by any person shall, for the purposes hereof, be treated as a separate business subject to the license provided for in this Ordinance. Warehouses used incidentally with a duly licensed business shall not be deemed to be a separate place of business or branch establishment.

E. Whenever a partnership or firm is established in any professional office in which two or more members of the firm are licensed under state law to practice such profession, the license fee for such partnership or firm shall be 150 percent of the fee amount provided by Council Resolution.

Section 8. Application Procedure; License Transfer.

A. All licenses shall be issued by the City Recorder upon written application and not otherwise.

B. The application for such license, or renewal thereof, shall contain such information as the City deems appropriate to determine the ownership, location, and management of the business.

C. No transfer of a license shall be made without written application for the transfer being made to the City Recorder. An entry of such transfer shall be made by the City Recorder in the record of licenses for which the City shall charge and receive a fee as established by Resolution of the City Council.

D. An application for an initial business license or a change in address due to the physical relocation of a currently licensed business shall be accompanied by the payment of an application fee as established by Resolution of the City Council. This fee shall be in addition to the business license fee provided for by Section 6. No such application shall be accepted unless all information contained therein is provided and the full fee is paid.

Section 9. Falsifying Application Information; Penalty for Delinquent Filing.

A. It is unlawful for any person to fail, refuse or neglect to comply with the provisions of this Ordinance.

B. In the event a business fails or neglects to obtain a license and pay the appropriate fee(s) before they become delinquent, the City Recorder shall collect, in addition thereto, an additional charge of 1/12 of the annual fee shall be payable for each month or portion thereof that a business fails to pay the prescribed fee.

C. Nothing contained in this Ordinance shall be or construed as vesting any right to the amount of any license or other/additional taxes or fees, and the fees provided for in this Ordinance may be increased or decreased and additional or other fees provided for and levied in any and all instances at any time by the City.

Section 10. Violation does not Exempt Payment of Fee; Attorneys fees.

A. The conviction of any person for violation of any of the provisions of this Ordinance shall not operate to relieve such person from paying any fee or penalty on any fee for which such person is liable, nor shall the payment of any such fee be a bar to, or prevent, any prosecution in the city court of any complaint for the violation of any of the provisions of this Ordinance.

B. The City shall be entitled to the award of a reasonable attorney fee in the event the City Administrator deems it necessary to enforce the requirements imposed by this Ordinance.

Section 11. Severability.

The invalidation of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Section 12. Effective date.

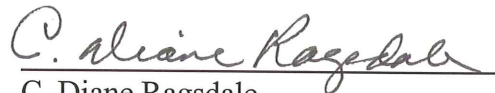
This Ordinance shall become effective 30 days from the date of its adoption by the Council and approval by the Mayor.

First Reading March 6, 2006.


Second Reading March 20, 2006.

Passed by the City Council this 20th day of March, 2006.

APPROVED by the Mayor on this 20th day of March, 2006.


C. Diane Ragsdale
Mayor

ATTEST:



Eve Dolan
City Recorder/Administrator