

ORDINANCE NO. 215
AN ORDINANCE PROVIDING FOR LICENSING OF COMMERCIAL BUSINESSES
OPERATIONS FOR THE PURPOSE OF REVENUE; PROVIDING THE METHODS OF
ISSUING LICENSES; PROVIDING PENALTIES; AND REPEALING ORDINANCE NO. 186.

WHEREAS, the City of Detroit finds it in the interest of citizens of the city to review Business License requirements;

THE CITY OF DETROIT ORDAINS AS FOLLOWS:

SECTION 1: Purpose and Scope

- A. This ordinance is enacted to provide revenue for municipal purposes.
- B. The license fees levied by this ordinance are in addition to any other license or permit fees required to engage in a business.
- C. Nothing in this ordinance shall be construed to apply to a person transacting and carrying on a business that is exempt from city taxation by virtue of the constitutions or statutes of the United States or the state of Oregon.
- D. The levy or collection of a license fee shall not be construed to be a license or permit to engage in a business that is unlawful, illegal or prohibited by the laws of the state of Oregon or the United States or by city or county ordinances.

SECTION 2: Definitions

- A. Applicant. Agent or owner of the named business.
- B. Business. An enterprise, activity, profession, trades, occupation, or undertaking, carried on with the intent:
 - 1. That a revenue be realized there from; and
 - 2. That the revenue, if any, inure to the benefit of the owner or owners of the activity.
- C. City. City of Detroit, Oregon.
- D. Council. The City Council of the City of Detroit, Oregon.
- E. Doing or transacting business. Any act or series of acts performed in the course or pursuit of a business activity.
- F. Employee. Any individual who performs service for another individual or organization having the right to control the employee as to the services to be performed and as to the manner of performance.
- G. Garage sale. A commercial activity open to the public, conducted at a private residence where personal property is sold to others.
- H. Home occupation. A business carried on within a dwelling, and which business is incidental to the use of the dwelling for dwelling purposes.
- I. License. The permission granted by the city to engage in a business or activity regulated by this ordinance.
- J. Licensee. A person who has a valid license issued pursuant to this ordinance.
- K. Motel. Any structure, or any portion of any structure, which is occupied or intended or designed for occupancy for 30 consecutive days or less for dwelling, lodging, or sleeping purposes, and includes, by way of illustration and not limitation, any motel, inn, tourist home or house, hotel, bed & breakfast, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in mobile home or trailer parks, or similar structure or portions thereof so occupied.
- L. Owner. Means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, municipal or other public corporation, limited liability company,

estate, trust, business trust, receiver, trustee, syndicate, or other group or entity in law or fact.

- M. Person. In addition to its ordinary meaning, any business entity recognized by the state of Oregon. Singular includes plural.
- N. Profit. The excess gross receipts over expense.
- O. Rental Activity. A person who accepts payment for the use of a property.
- P. Revocation. (of any business license). An official order to suspend business operations pending corrections or ceasing of certain conditions or practices.
- Q. Suspension. (of business license). An official order to suspend business operations pending correction or ceasing of certain conditions or practices.

SECTION 3: Business License Requirements

It shall be unlawful for any persons for themselves, or as agent or employee of another, to transact and carry on any business, trade, profession, calling, or occupation within the City of Detroit, Oregon, unless:

- A. Such business activity has been duly licensed as herein provided; and
- B. The license is valid at the time of the transaction.

SECTION 4: Exemptions

The requirements contained in this ordinance shall not apply to:

- A. The sale of personal property acquired for household or other personal use by the seller, provided that the total length of sale is fewer than 10 days in any one calendar year;
- B. An individual performing babysitting, nursery or child-care activities on a part time basis;
- C. An individual who is employed by a business which has obtained a license;
- D. An individual hired or employed on an intermittent or casual basis by a household, business or other employer to supply only services;
- E. Any conduct which is exempt from licensing by virtue of the constitution or laws of the United States or the State of Oregon;
- F. Any person 16 years or younger who operates a business on a part-time basis, which business has an annual gross income of less than \$1,500 is exempt from this ordinance;
- G. Federally tax-exempt organizations and nonprofit religious organizations;
- H. Public utilities and businesses covered by franchise ordinances and making payments of fees under such franchises;
- I. Any person for mere delivery in the City of any property purchased or acquired in good faith from such person at the regular place of business outside the City (i.e. United Parcel Service, furniture deliveries, etc.)
- J. Any licensed real estate sales person or associate real estate broker who engages in professional real estate activities only as an agent of a real estate broker or organization.
- K. Any person rendering home or personal care to any incapacitated person in exchange for wages;
- L. Home occupations as described herein, provided the home occupation does not advertise as defined in SECTION 16: Evidence of Doing Business, or said home occupation has no visible impact on the residential neighborhood, such as excessive traffic or parked vehicles;
- M. Home builders and remodelers exempt from city business license fees under ORS 701.010 and any other business or occupation specifically exempt under the provision of the Oregon Revised Statutes;
- N. City-sponsored activities and/or city permitted events, and business operating under a city franchise.

SECTION 5: License Applications

- A. Applications for business licenses shall be submitted on forms provided by the City and

must be accompanied by appropriate fee. Every such application shall be signed by the owner or a duly authorized agent and shall contain the following information:

1. Name of person or persons owning business; if a corporation, the name of an authorized officer (must include proof of officer's authority (i.e. minutes of an official meeting));
 2. Name and phone number of manager, if different from owner;
 3. Assumed business name, if any;
 4. Address of business premises and mailing address and phone number;
 5. A description of the business to be conducted in the city;
 6. The date of the application;
 7. The amount of money tendered with application;
 8. The signature of application;
 9. Emergency contact name and telephone.
 10. Any other information necessary to enable the City Recorder or designee to review the application to determine whether the application should be approved.
- B. Where the business includes activities classifiable in two (2) or more categories, the primary or predominant activity should be designated.
- C. License fees shall be computed based on information contained in the application, and it shall be unlawful for any person knowingly to sign or submit a business license application containing false information.
- D. The City shall prepare blank applications and make them available at City Hall upon request. Failure to receive or secure a form shall not relieve any person from the obligation to pay a license fee and obtain a license under this ordinance.
- E. Licensee must notify the City within ten (10) days of any change in material information contained in the application, related materials, or license.

SECTION 6: Two or More Businesses

- A. Two or More Businesses on Same Premises.
1. If two (2) 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, shall be sufficient for all such activities. Any business activity leased, under concession to, or owned wholly or in part by a different person or persons on the same premises must be separately licensed.
- B. Two or More Business Premises.
1. The conducting of a business or businesses at two (2) or more locations that are separate shall, for the purposes hereof, be deemed separate businesses, and each shall be subject to the license fee herein provided for.
 2. Physically segregated parts of a business, the use of which is necessary function toward the complete operation of the business, shall not be considered a branch or separate business.
 3. A separate license is not necessary for a warehouse used in connection with a licensed business but at a separate location..

Section 7: License – Fee – Term

- A. No license shall be issued under this ordinance unless the applicant pays a license fee to the city in the amount set by resolution of the Council. If an applicant has conducted business in the city without a license, the license fee shall include the license fee the applicant would have been required to pay if the applicant had been conducting business pursuant to a license, and a late fee.
- B. The license term shall be the twelve-month period beginning September 1 each year and ending August 30 the following calendar year.

- C. City shall mail reapplication form for annual business license to last known address of business owner or corporation in August of each year.
- D. New mid-year business license application fees shall be pro-rated.

Section 8: License – Fee – Payment – Delinquencies

- A. There shall be a penalty of ten percent (10%) added to all business license renewals paid later than thirty (30) days after they are due.

Section 9: License – Display

- A. Except as provided in subsection B of this section, a license issued under this ordinance shall be displayed in a conspicuous place on the business premises at all time during the license's effective period, available for inspection by any interested person.
- B. If the licensee does not maintain a place of business within the city, the license or a copy thereof shall be in the possession of the licensee or the licensee's representative while that person is conducting business within the city. Upon the request of any interested person, that person shall show the license or its copy.

Section 10: License – Nontransferable

A license issued pursuant to this ordinance is a personal privilege and is not transferable or assignable.

Section 11: Duplicate License

A duplicate license shall be issued upon application and payment of a fee of \$10.00 to replace the license previously issued which was lost or destroyed.

Section 12: License – Grounds for suspension or revocation

The City Recorder may deny, suspend, or revoke a business license upon finding that:

- A. The licensee fails to meet the requirements of, or is doing business in violation of Federal, State, or County law, City ordinances, or requirements of this ordinance.
- B. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials or license.
- C. The applicants past or present violation [of] law or ordinance, presents a reasonable doubt about his/her ability to perform the licensed activity without endangering property or the public health or safety.
- D. The licensed activity or device would endanger property or the public health or safety.
- E. The City Recorder shall provide written notice of a denial, suspension or revocation of a business license to applicant or licensee's business or residential address shown on the application form. The notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 15 of this ordinance. The notice shall be given at least 15 days before the revocation becomes effective. If the violation ends within the 15 days, the City Recorder may discontinue the revocation proceedings.
- F. Upon determination that a business activity presents and immediate danger to life, limb, or property, the City Recorder may suspend a license immediately. In addition to any other form of notice employed, a notice shall be mailed to the licensee stating the reason for suspension and shall inform the applicant of the right of appeal under section 15 of this ordinance.
- G. If a business license is suspended or revoked, the concerned business shall immediately cease conducting any and all businesses within the City.
- H. Any business which continues to conduct business within the City subsequent to action by the City Recorder to suspend or revoke the City license for such business shall be subject to the same fine and penalties as if such a business had never obtained a City business license and was carrying on business within the City without such a business

license. Furthermore, City may exercise its ability to obtain an injunction from the Marion County Circuit Court.

SECTION 13: Penalties

- A. Any person violating any of the provisions of this Ordinance shall upon determination of the City Council, be assessed a civil penalty with a base fine of up to two hundred and fifty dollars (\$250.00) for each offense. A separate offense shall be deemed committed for each day a violation occurs.
- B. If 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.
- C. The remedies specified hereunder shall not be deemed exclusive and the City of Detroit may, at its option, collect the amounts due and payable hereunder by way of action at law in any court of competent jurisdiction in the State of Oregon.
- D. Violations of this ordinance shall be subject to the procedures and penalties of City of Detroit Ordinance No. 207, An Ordinance Providing for Enforcement of City Ordinances.

SECTION 14: Remedies for Nonpayment:

1. The amount of any unpaid business tax, including delinquency charges and penalties shall constitute a debt due the City. The City Attorney may collect the amount due by the appropriate means, including the institution of an action up to and including an injunction in the name of the City against the person liable therefore in any court of competent jurisdiction.
2. No civil judgment 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.

SECTION 15: Appeals

In the event, an applicant for a license under this ordinance is denied such license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. Any person aggrieved by any determination of the City Recorder with respect to the amount of such tax, interest, and penalties, the applicant or license holder shall have the right to appeal. The written notice of appeal to the Council shall be filed with the City Recorder within twenty (20) days after the denial of license or license suspension or revocation. The Council shall hear and make a determination in regards to the appeal at its next regular meeting immediately following the filing of the notice of appeal. The decision of Council may be appealed to City of Detroit Municipal Court pursuant to Ordinance No. 207, An Ordinance Providing for Enforcement of City Ordinances.

SECTION 16: Evidence of Doing Business

In the review of any alleged violation of this Ordinance, evidence of advertisements by newspapers, radio, television or other medium or by signs displayed for public view, that such business was being conducted expressly or impliedly offering to sell goods or services to the public or any segment thereof, shall constitute prima facie evidence that the defendant was transacting business within the City on the day or date during which such representations were made.

Section 17: Confidentiality

- A. Except as otherwise required by law, it shall be unlawful for the City, an officer, employee or agent to divulge, release, or make known in any manner, any financial information submitted or disclosed to the City under the terms of this Ordinance. Nothing in this Section shall prohibit:
 1. The disclosure of the names and addresses of any persons to whom business

- licenses have been issued; or
2. The disclosure of general statistics in a form which would prevent the identification of financial or employee information regarding an individual business licensee or applicant;
 3. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of a claim by the City of Detroit, Oregon.

SECTION 18: Saving Clause

The repeal of ordinances by Section 21 does not affect the validity of licenses issued or fees assessed under those ordinances. Repeal of those ordinances does not relieve an obligation incurred under those ordinances nor prevent prosecution of a violation of those ordinances that was committed before the effective date of this ordinance.

SECTION 19: Severability

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

SECTION 20: Effective date

This ordinance shall take effect on July 1, 2009, and remain in effect until repealed.

SECTION 21: Repeal

Ordinance Number 186 is hereby repealed.

First reading of Ordinance No. 215 in full before the Council of the City of Detroit, Oregon on May 12, 2009.


Second reading of Ordinance No. 215 by title before the Council of the City of Detroit, Oregon on June 9, 2009.

This Ordinance adopted and passed by the Common Council of the City of Detroit, Oregon and signed by the Mayor on this 10th day of June 2009.

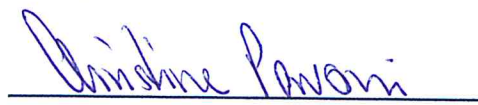
Effective Date: July 1, 2009

Ayes 6 Nays 0 Absent 1

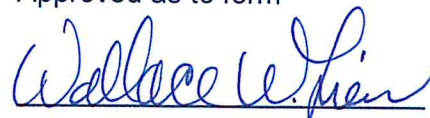
Signed


Margaret H. Scott, Mayor

Attest


Christine Pavoni, City Recorder

Approved as to form


Wallace W. Lien, City Attorney