

AN ORDINANCE PROVIDING FOR THE LICENSING OF CERTAIN BUSINESSES IN LINCOLN COUNTY, OREGON; PROVIDING FOR THE APPLICATION FOR AND ISSUANCE OF LICENSES; PROVIDING FOR THE ISSUANCE AND NOTICE THEREOF AND PROVIDING PENALTIES.

THE COUNTY OF LINCOLN DOES ORDAIN AS FOLLOWS:

1.00 This Ordinance is enacted pursuant to Chapter 344, Oregon Laws, 1967.

1.05 Short Title. This ordinance and amendments thereto shall be collectively known as the Business License Ordinance.

1.10 Effective date. This ordinance shall become effective one calendar month from the date of its adoption. Future amendments will become effective upon their adoption unless otherwise specifically indicated.

1.20 Purpose. This ordinance is adopted for the purpose of preserving the public health, safety and welfare of Lincoln County, Oregon.

1.30 Separability. If any part of this ordinance be found invalid, the remainder shall, nonetheless, be operative.

2.00 Definitions. The following definitions shall apply whenever the indicated term is used in the Business License Ordinance:

(1) The county. Lincoln County, a political subdivision of the State of Oregon.

(2) A city. An incorporated city located within the county.

(3) The Board. The Board of County Commissioners of Lincoln County.

(4) The District Attorney. The District Attorney of the State of Oregon for the county.

(5) The Clerk. The County Clerk for the county.

(6) Affected Businesses. One or more of the following occupations or trades, when operated, conducted, maintained or carried on in the county: peddlers who sell goods, wares or merchandise; entertainment business; drive-in restaurants; junk dealers and second hand dealers.

(7) Applicant. The person signing a license application upon behalf of an applicant business.

(8) Applicant business. The person, association, partnership, corporation, or other entity seeking to engage in an affected business.

(9) Residence. The location at which a person lives or an association, partnership, corporation, or other entity, has its principal business address.

(10) Place of business. The location within the county at which an affected business is conducted, if any; otherwise the location within the county at which an affected business maintains an office, if any; otherwise the location within the county selected by the applicant, if any; otherwise

the location within the State of Oregon at which service of process may be made upon the applicant business.

(11) License. A public record of the county, issued by the clerk, and evidencing the county's authorization to, operate, conduct or engage in an affected business for the calendar year for which it is issued.

(12) Certificate. A public record of the county, issued by the clerk, evidencing the fact that a named person is employed by a currently licensed, affected business.

(13) Peddler or itinerant merchant:

(a) Every person who, for himself or as agent for another, goes from place to place or from house to house, carrying for sale and offering or exposing for sale any goods, wares or merchandise.

(b) Every person who, for himself or as agent for another, goes from place to place or from house to house, selling or offering to sell for future delivery, by sample or catalog, at retail to individual purchasers who are not dealers in the articles sold, any goods, wares or merchandise.

3.00 License. No person shall conduct or operate an affected business unless and until he has in his possession a current license to conduct or operate the affected business. No person shall engage in an affected business unless the license authorizing it has been issued and is current.

3.05. This ordinance and the licensing requirements and all of the provisions herein set forth shall not be applicable to any business, affected or otherwise, which shall be or is conducted within the territorial limits of any city in the County of Lincoln.

3.10 Regulations. No person shall conduct, operate or engage in affected business contrary to the regulatory provisions of this Business License Ordinance.

3.20 Application. No person, applicant or applicant business, shall submit, cause to be submitted or suffer to be submitted an application form containing information which he knows, or in the exercise of due diligence should know, contains false or deceptive information.

3.30 License Display. Every applicant business to which license shall issue shall retain the license during the period of license validity, shall post it publicly at its place of business and shall display it upon request to any person.

3.40 Certificate Display. Any person engaging in an affected business to whom a certificate has issued shall keep it in his possession at all times he is engaged in the affected business and shall display the certificate to any person asking to see it.

3.50 Surrender. Each license and certificate remains the property of the county, and any person having its custody or possession, shall immediately surrender it upon written demand of the board. Any person to whom license or certificate has issued shall promptly forward it to the Clerk when it expires, when it is suspended or revoked, or when such person ceases to conduct, operate or engage in the affected business.

3.60 Alteration of Document. No person shall alter any license or certificate, nor shall any person display any altered license or certificate.

3.70 License Period. All licenses and certificates required and provided for by this ordinance shall be issued on a calendar year basis. Any license or certificate issued as provided by this ordinance shall expire at the hour of midnight on December 31st of each year.

4.00 Application for License. Any applicant business may apply to the Board for license to operate or conduct an affected business by filing an application therefor with the Board during the regular business hours. Each application shall be in writing, upon a form approved by the Board, signed and sworn to by the applicant upon behalf of the applicant business, and accompanied by tender of the appropriate license fee. The Board may reject any application which does not substantially conform to the requirements of this section.

4.01 Basic Application Information. Every application for license shall contain the following information: (1) the type of license sought; (2) the business name to be used; (3) the applicant's name, address and position with the applicant business; (4) the name and address of every person having an interest in the applicant business and where a corporation is so listed, the address shall include both the state of incorporation and the name and address of that person within the State of Oregon who is authorized to receive service of civil process for the corporation; (5) whether applicant business is engaged in interstate commerce; (6) whether applicant business has filed an assumed business name; (7) whether applicant business has ever had a similar license denied or revoked; (8) whether applicant business employs persons previously convicted of a crime involving moral turpitude; (9) the principal place where said affected business is to be conducted, and (10) contain and have endorsed thereon the approval of such county officials as may be required by the Board.

4.02. Peddlers License Application. In addition, each application for license as peddlers or itinerant merchant shall: (1) describe the nature of the goods, wares and merchandise to be sold and the method of solicitation; (2) list of the names, addresses and physical description of each person who will solicit pursuant to the license sought; (3) affirm familiarity with, and willingness to comply, with the State Consumer Protection Act and with the Business License Ordinance.

4.03 Entertainment License Application. In addition, each application for entertainment license shall (1) disclose the proposed business hours and days and the nature of the entertainment to be provided; (2) provide required information concerning safety hazards and inspections; (3) list each music or amusement device, each pool or billiard table, each bowling alley, each coin-in-the-slot machine or similar device, each game of skill or chance kept or employed upon the premises and whether a federal gaming tax stamp has issued (4) indicate whether food or liquor will be sold, consumed or permitted upon the premises and whether minors will be admitted to the premises; (5) affirm acceptance of responsibility for the maintenance of order; and (6) affirm familiarity with and willingness to comply with the State Liquor Control Act, and all other applicable Federal, State or County laws or ordinances.

4.04 Drive-In Restaurant License Application. In addition, each application for drive-in restaurant license shall (1) disclose the proposed business hours and days; (2) disclose the size of the premises and the nature of access; (3) disclose the person, agency and date the restaurant was last inspected for compliance with health and sanitation regulations; (4) affirm willingness to prevent the accumulation and spread of litter; and (5) affirm familiarity with and willingness to comply with the State Liquor Control Act and Business License Ordinance; and (6) affirm willingness to prevent undue noise and disturbance.

4.05 Secondhand Dealer's License Application. In addition, each application for secondhand dealer's license shall: (1) disclose the proposed business hours and days; (2) disclose where acquired property will be kept and the degree of supervision; (3) disclose the type of transactions which will be permitted; (4) affirm familiarity with, and willingness to comply with, applicable state regulations and with the Business License Ordinance, particularly including, but not limited to, the record keeping and disclosure provisions of this ordinance.

4.10 Endorsement. Upon filing a license application, the Board shall promptly submit it to the attention of the appropriate officials for endorsement. Each such official shall forthwith endorse said application or signify thereon his recommendation of, or objection to, the issuance of such license. Endorsement does not necessarily constitute a recommendation that license issue. Where objection is made to issuance of license such official shall specify objections and the reason for such objection.

4.20 Submission of Application and Hearings. After any application has been submitted and referred to the required county officials the Board shall forthwith conduct a summary hearing and shall consider said application and all endorsements thereon.

4.22. Summary Issuance of License. Where it appears in the public interest, the Board may summarily direct the clerk to issue the license sought.

4.23 Scheduling Informal Hearing. In all other cases, the Board may defer action to a date certain but in no event shall such hearing be deferred for more than 30 days after filing of the application for license.

4.24 Provisional Steps. When deferring action, the Board may also direct that: (1) any county official conduct an investigation and file report thereon prior to the informal hearing; (2) a defect in form or in fee tendered be brought to the attention of the applicant together with an invitation to correct the defect prior to informal hearing; (3) notice of informal hearing be given to any person; or (4) applicant be requested to provide additional information.

4.30 Informal Hearing. At the date scheduled for informal hearing the Board shall determine whether the public interest would be served by issuance of the license sought. In reaching this determination, the Board may consider all relevant information however presented or acquired. It shall be the duty of any non-endorsing, appropriate official of the county, or any official who has objected to the issuance of the license, to appear in person or by deputy, and offer any information in that official's possession bearing upon the propriety of issuing the license sought. The Board may hear any person purporting to have information which may assist the Board in reaching its determination. The Board may waive defects in the form of the application.

4.31 Issuance of License. If, after such informal hearing, it appears to the Board that issuance of license would be in the public interest, the Board may direct the clerk to issue license forthwith.

4.32 Conditional License. If it appears in the public interest, the Board may direct the Clerk to notify applicant that license will issue only subject to specified conditions unless applicant files a timely written request for public hearing.

4.33 Refusal of License. If it appears in the public interest that the license not be granted, the application shall be rejected and refused.

4.40 Notice of Hearing Result. Promptly upon the conclusion of the informal hearing, the Board shall notify the applicant of the result of that hearing. Notices of

conditional license shall be mailed to applicant at the address shown upon his application form. Each such notice shall advise the applicant of the action taken by the Board and of the consequence of failure to request a public hearing.

4.41 Failure to Request Public Hearing. Applicant will be deemed to consent to the result of any informal hearing unless he files a written request for public hearing within 30 days after the date of the mailing of notice of the result of the informal hearing. No particular form of request is required. All such requests shall be filed with the Board either by manual delivery or by mail. Any request by mail, to be timely, must be postmarked within thirty days from the date of receipt of notice of the action taken by the Board at the informal hearing.

4.42 Date of Public Hearing. Immediately upon receipt of a timely written request for public hearing, the Board shall fix a time, day and place for the hearing, which day shall not be later than thirty days after filing of the request.

4.43 Notice of Public Hearing. The Board shall forthwith give notice of the public hearing to the following persons and in the following manner: (1) the applicant shall be notified by mailing the notice to him by certified mail at the address listed upon the license application not less than ten days prior to the hearing date; (2) within the same time the public shall be notified by prominently posting a copy of notice mailed to applicant upon the Lincoln County Courthouse bulletin board; (3) The Board may, in its discretion, notify any other interested person, firm or corporation in such manner as it shall deem advisable.

4.44 Contents of Notice. The notice of public hearing shall identify the applicant, the applicant business, the type of business involved, the time, date and place of the hearing and the purpose of the hearing.

4.50 Public Hearing. The hearing shall commence at the time fixed and may thereafter be adjourned from day to day but in no event shall said hearing be adjourned for an unreasonable time. Any person may appear and offer relevant evidence. In its discretion, the Board may control the order in which matters are presented and limit the time extended to any person in which to present argument or evidence.

4.52 Grounds for Denial. If the Board shall find that the issuance of any license would be injurious to the public health, welfare, safety or morals of the people of Lincoln County, then the application for license shall be denied.

4.53 Result of Hearing. Within ten days following the conclusion of the public hearing, the Board shall announce its decision, notify the applicant thereof by certified mail and shall note the decision upon the face of the application for license.

5.00 License fees. All license fees represent a processing and enforcing fee. They shall be returned if the application is rejected or withdrawn prior to informal hearing. Upon issuance of certificate or license, the fee shall be transferred to the county treasurer and deposited in the county general fund.

5.01 Exempt Licenses. No fee shall be charged for the processing of any license application of an applicant business engaged in interstate commerce, an exclusively charitable activity or any business otherwise exempt from licensing by any federal or state law.

5.10 Basic License Fee. Each application for license shall be charged a fee of \$5.00.

5.11 Peddler's License Fee. In addition to the basic license fee, there shall be charged a fee of \$1.00 for each employee whose name is listed upon an application for peddler's license.

5.12 Entertainment License Fee. In addition to the basic license fee, the following sum shall be charged in case of any application for entertainment licenses (1) the sum of \$1.00 for each music or amusement device, each pool or billiard table, each bowling alley, each coin-in-the-slot device, and each game of skill or chance listed upon the application; (2) the sum of \$2.50 for each application to operate a theater or motion picture show; (3) the sum of \$5.00 for each application to operate a dance hall, circus, amusement park or traveling show; (4) the sum of \$20.00 for each application to operate a card room; and (5) the sum of \$20.00 for each application which discloses an intention to be open after 2:00 A.M., or to permit minors to attend when live entertainment is offered.

5.14 Secondhand Dealer's License. In addition to the basic fee, there shall be charged a fee of \$10.00 for each application for secondhand dealer's license.

5.50 Certificate fee. A fee of \$.50 per certificate shall be charged to each licensed business requiring issuance of identification certificates. This fee must be paid when the application is presented to the Board for approval.

6.00 Regulatory Provisions. The following special regulations shall apply to all persons operating, maintaining or engaging in the following affected businesses:

- (1) **Peddler Employee List.** All peddlers or itinerant merchants shall promptly notify the Board of any additions to or deletions from their list of employees and shall obtain certificates for all new employees before permitting them to commence employment.
- (2) **Peddler Trespass.** No peddler or itinerant merchant shall enter uninvited into a private building, structure or room.
- (3) **Entertainment Device list.** All persons operating, maintaining or engaging in entertainment business shall promptly notify the Board of any additions to the list of music or amusement devices, pool or billiard tables, bowling alleys, coin-in-the-slot devices or games of skill or chance and pay the necessary license fee therefor.
- (4) **Secondhand Records.** Every person operating, maintaining or engaging in a junk or secondhand business shall keep a dated daily true account of all transactions occurring in said affected business showing
 - (a) the signature and address of each person from whom personal property is received by purchase or otherwise, for disposal in or through such place of business
 - (b) a notation of identifying memoranda displayed by such person or the absence thereof
 - (c) the number of pounds of any material customarily sold by weight
 - (d) the number of articles received
 - (e) a reasonable identifying description of the articles or material.
- (5) **Disposition of Secondhand Records.** The records required by subparagraph (4) of this section shall be kept at the place of business of the affected business and shall, during all business hours and at such other times as reasonably may be required by law enforcement officers, be open to inspection by any law enforcement officer. The records shall be kept for at least one year after the date of receipt of such articles or materials. When any such affected business discontinues its business, the records or duly authenticated copies thereof shall be delivered to the Board or disposed of as the Board may direct.

(6) Minors. No person operating, maintaining or engaging in an affected business having a fixed place of business within the county, who knows or in the exercise of reasonable care should know that one or more of the following conditions exists, shall permit any minor (1) to possess, consume or be upon the premises while under the influence of alcoholic liquor, narcotic or dangerous drugs as defined by the statutes of this state (2) to resort to said premises for purposes of truancy or (3) to engage in any game of chance upon said premises.

(7) Nuisances. No person operating, maintaining or engaging in an affected business having a fixed place of business within the county shall (a) permit the unsightly accumulation of spread or litter (b) permit or encourage excessive noise upon the premises to the annoyance of the public or adjacent property owners or (c) fail or neglect to maintain order upon said premises.

(8) Traffic Hazards. No person operating, maintaining or engaging in an affected business having a fixed place of business within the county with access to a public road shall so conduct the affected business as to create a continuing or repeated hazard to traffic upon the road.

(9) Inspections. No person operating, maintaining or engaging in an affected business having a fixed place of business within the county shall deny or unreasonably restrict access thereto by any public officer for the purpose of inspection for fire, health, sanitation, electric or structural hazards or enforcement of this ordinance or any other law of this state.

7.00 Licenses. All business licenses issued shall be upon forms approved by the Board and shall bear the signature of the county clerk.

7.10 Renewal Annual License. At any time after December 1st of any year, any licensee whose license has not been suspended or revoked, may pay to the clerk the necessary fee and the clerk may issue to such currently licensed business a license to continue to operate, maintain and engage in the same affected business during the succeeding calendar year.

7.30 Reinstated Annual License. If any license has been revoked for cause, the applicant may apply for reinstatement or a new license in the same manner as if no license had been issued and all of the provisions of this ordinance relating to the application for a new license and the procedures relating thereto shall be applicable in obtaining or granting such reinstatement.

7.70 Identification Certificates. Any licensed business may apply to the Board for issuance of identification certificates for its employees or representatives. The application shall be upon a form approved by the Board and shall particularly identify the person for whom the certificate is sought. All identification certificates shall be in the form approved by the Board.

7.71 Display and Surrender of Certificate. A licensed business to whom identification certificates are issued shall cause its employees to retain them in their possession while engaging in the affected business and shall display them to state and county officials upon request. Each certificate remains the property of the county and shall be promptly surrendered to the clerk upon revocation, suspension, or expiration of the license.

When any such licensed business discontinues its business, the holder or his authorized sales agent shall be obligated to the clerk of the Board of Health.

8.00 Grounds for Revocation. Any act or condition which would constitute grounds for denial of a license shall constitute cause for revocation of a license issued. Revocation shall be ordered by the Board only after cause therefore has been established by a preponderance of the evidence in the following manner.

8.10 Notice of Suspension. When it appears to the Board that cause may exist for the revocation of any license, the Board shall forthwith direct that a notice be issued to the licensee. The notice shall contain the following (1) the nature of the charge or alleged cause of revocation (2) the time and place for a hearing upon the matter which hearing date shall be not less than ten days nor more than twenty days from the date of mailing of such notice. The giving of notice of hearing shall not operate to suspend any license until a hearing is held as herein provided.

8.11 Service of Notice. The Board shall cause the notice of hearing upon the license in the manner provided by Section 4.40 of this ordinance.

8.20 Revocation Hearing. The hearing shall commence at the time, date and place scheduled in the notice and may thereafter be adjourned from day to day. The district attorney or deputy shall represent the public; the licensed business shall appear in person or by attorney; any other person may appear and be heard upon the question before the Board. In its discretion, the Board shall control the order in which matters are presented and limit the time extended to any person. Only that evidence shall be received which is competent and relevant to the nature of the charge specified in the notice of suspension.

8.30 Result of Hearing. Within five days after the conclusion of the hearing, the Board shall enter findings of fact and direct (1) that license be revoked for failure of the licensed business to appear (2) that license be revoked for a cause specified in the notice of hearing (3) that license be suspended and subject to restoration only upon compliance with one or more specific conditions for a cause specified in the notice of suspension or (4) that license be not revoked or suspended.

8.35 Notice of Determination. A notice of the Board's determination shall be given in the manner provided by Section 4.53 of this Ordinance. Such notice shall set forth the decision of the Board and its findings. In the event of suspension or revocation of any license, the same shall be surrendered together with any certificates issued therewith to the Sheriff of Lincoln County, Oregon.

8.40 Results of Revocation or Suspension. In the event of any suspension of license the affected business shall not be conducted during the period of suspension. In the event any license is revoked as herein provided, the affected business shall not be carried on or conducted, until or unless a new license is issued after application and hearing in the same manner as if no license had theretofore been issued for such affected business. Any order of revocation shall be stayed by timely appeal to the circuit court as provided by Section 8.50 hereof and Section 5 subparagraph (2) of Chapter 344, Oregon Laws of 1967.

8.50 Appeal to Circuit Court. Any person aggrieved by a decision of the Board may take appeal of such decision in the manner provided by law for appeal to the Circuit Court for Lincoln County, Oregon. Any appeal from any order of denial or revocation of any license shall be taken within thirty days from the date of the order to be appealed.

9.00 Penalties. Every person who conducts or operates an affected business in violation of any provision of the Business License Ordinance shall be punished, upon conviction, by confinement for not more than thirty days or by a fine of not more than \$1,000.00 or both. A failure from day to day to comply with a provision of the Business License Ordinance shall be a separate offense for each such day.

Violations of this Ordinance shall be considered and are hereby defined as misdemeanors and the proceedings thereon shall be initiated, carried out and conducted in the manner provided by law for such violations.

Done in open Court this 19th day of February 1969.

Mike Miller

Albert R. Strand

Andy Zedewitz