

**City of St. Helens**  
**ORDINANCE NO. 3258**

AN ORDINANCE PROVIDING FOR BUSINESS LICENSES,  
INSTITUTING A METHOD FOR ISSUING LICENSES,  
ESTABLISHING REVOCATION AND SUSPENSION PROCEDURES,  
PROVIDING PENALTIES FOR VIOLATIONS, AND REPEALING  
CODE CHAPTER TITLE 5 BUSINESS TAXES, LICENSES AND  
REGULATIONS

**THE CITY OF ST. HELENS ORDAIN AS FOLLOWS:**

**5.01 BUSINESS LICENSES**

**5.01.001 Short Title.**

The provisions of this Chapter create the terms of the "City of St. Helens Business License Code" and is referred to herein as "Business License Code" or "BLC."

**5.01.002 Purpose.**

The Business License Code facilitates the collection of information about businesses in the City. Police and Fire Departments are able to respond more effectively and safely to emergency situations at city businesses when they have information about the types of businesses and the contents of the structures in the city. Building Code compliance, Planning Code compliance, Fire Code compliance, and Wastewater discharge compliance are enhanced by obtaining data from business license applications about structures in which businesses are located. Business demographic information is also necessary to promote economic development. The Business License Code is designed to obtain that information. The public health, safety, and welfare are benefitted by this Business Licensing Code.

**5.01.003 Definitions.**

- (1) "APPLICANT" means owner, proprietor or duly authorized agent for the business requesting a license.
- (2) "BUSINESS", except as limited below, means any enterprise, trade, activity, profession, occupation, private educational facility, or any kind of activities conducted for profit within the City including businesses and rental properties that offer to rent or lease one or more residential rooms, units, or structures, and commercial building rentals containing one or more businesses. BUSINESS does not include the noncommercial on-premises sale of used household goods by a person who resides on the premises (a yard or garage sale) so long as the sales are conducted on no more than six days in any 12-month period.
- (3) "CITY" means the City of St. Helens, Oregon.

- (4) "CITY ADMINISTRATOR" means the person holding the position of City Administrator or designee.
- (5) "COMMERCIAL BUILDING RENTAL" means a building, portion of a building, or a group of buildings on a parcel of land within the city containing two or more businesses. A building or portion of a building containing two businesses shall not be considered a COMMERCIAL BUILDING RENTAL if the owner of the building conducts or has a majority ownership of a business in a portion of such building.
- (6) "COMMUNITY EVENT" means an event which is open to the public and which is approved by the City Administrator to use city street and sidewalk areas or held on private or public property with the consent of the owner or entity. A community event must be determined by the City Administrator to provide an overall community benefit, and must be sponsored by a service group or other organization, not an individual business.
- (7) "CITY COUNCIL" means the St. Helens City Council.
- (8) "DOING BUSINESS" means an act or series thereof performed in the course or pursuit of a business activity on more than one occasion or day in a calendar quarter and not as a one-time or isolated activity or event. A person is presumed to be doing business within the City if engaged in any of the following activities:
  - (A) Advertising or otherwise professing to be doing business within the City;
  - (B) Delivering goods or providing services to customers within the City;
  - (C) Owning, leasing, or renting personal or real property within the City which is used in a trade or business;
  - (D) Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this chapter. Property may be personal, including intangible or real in nature; or
  - (E) Engaging in any activity in pursuit of gain which is not otherwise exempted in this chapter.
- (9) "EMPLOYEE" means a natural person who works for or on behalf of a business in exchange for compensation, not including those employees leased from another business, regardless of the number of hours per pay period or method of compensation. EMPLOYEE includes, but is not limited to, a sales agent who works primarily for or under the direction of a principal or a broker.
- (10) "FULL-TIME EQUIVALENT EMPLOYEES" or "FTE" means the number of employees of a business calculated as shown in Section 5.01.007.
- (11) "HEARINGS OFFICER" means the City Council, or an outside party not affiliated with the City, that is hired or selected to conduct an appeal proceeding.
- (12) "HOBBY BUSINESS" means a business that makes less than \$400 per year.

- (13) "HOME BUSINESS" means a business located and operated out of a person's place of residence.
- (14) "LICENSE" or "BUSINESS LICENSE" means the document issued by the City granting the privilege to carry on a business within the City.
- (15) "MAIN CONTRACTOR" means a prime contractor or general contractor that is responsible for the day-to-day oversight of a construction site, management of vendors and trades, and the communication of information to all involved parties throughout the course of a building project"
- (16) "MOBILE BUSINESS" means any business without a fixed location or which is operating from a self-propelled vehicle or which can be pushed or pulled on a sidewalk, street, or highway on which food, goods, or services is prepared, processed, or from which food or other goods are then sold or dispensed to the public.
- (17) "NONRESIDENT BUSINESS" means a business operating in the City where the headquarters or main branch is located outside the City.
- (18) "PERSON" means individuals and all sole proprietor, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership, or any other form of organization doing business in the City.
- (19) "RENTAL PROPERTY" means a building, portion thereof, or group of buildings within the City and which is rented, leased, let, or made available for compensation for sleeping or living purposes. The term includes all multi-dwelling unit premises having two or more dwelling units including hotels and motels, automobile or tourist courts, rooming or lodging houses, or mobile home and trailer parks. In the case of a mobile home or trailer park, the term DWELLING UNIT refers to the space, pad, or stall.
- (20) "SECONDHAND DEALER" means a person engaged in conducting, managing, or carrying on the business of buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning or auctioning secondhand goods and articles.
- (21) "SOLICITATION" means any oral or written request to purchase or trade any product or thing; to request a contribution or donation of money or property for any purpose or cause; to request opinions or answers to surveys on any subjects; or, to request endorsement or support by petition any product, candidate, or cause.
- (22) "SOLICITOR" means a person or persons engaged in solicitation.
- (23) "SPECIAL EVENT" means an event specifically approved by the City Administrator granting privileges for the use of street and sidewalk areas, or held on private or public property where goods or services are purchased or sold, excluding the noncommercial on-premises sale of used household goods by a person who resides on the premises (a yard or garage sale) so long as the sales are conducted on no more than six days in any 12-month period. Such EVENT must be held within a specifically defined area for a period of time not exceeding three consecutive days.

- (24) "SUBCONTRACTOR" means a company or person whom a general contractor (or prime contractor, or main contractor) hires to perform a specific task as part of an overall project.
- (25) "TEMPORARY BUSINESS" means a person conducting or operating a business within the City for a period of less than 60 consecutive days in any calendar year. Examples include, but are not limited to, Christmas tree lots, fireworks, and fruit/vegetable/plant stands not part of a farmers' market.
- (26) "TEMPORARY LICENSE" means a business license issued for a term of up to 60 consecutive days.

**5.01.004 License Required.**

- (1) Except as may otherwise be provided in 5.01.004(6) - (7) below, any person doing business within the City shall first obtain a license and pay the required annual fee.
- (2) Nonresident businesses must obtain a City business license and pay the required fees.
- (3) Solicitors must obtain a City business license and pay the required fees, except as may other be provided in 5.01.004(6) - (7) below. Additionally, solicitors must comply with Chapter 5.05.
- (4) Temporary businesses, mobile businesses and special events obtain a temporary business license and pay the fee specified by City Council resolution. Additionally, temporary businesses, mobile businesses and special events must comply with Chapter 5.02.
- (5) No person shall conduct business within the City as an employee, agent, or representative of a business without first having obtained a valid business license regardless of the locale of the principal office(s) of that business.
- (6) The following businesses and activities need not obtain a business license but instead will be issued, at no cost, an "exemption certificate" that shall record the location, purpose and contact information of the business or activity if one is applied for:
  - (A) Churches and government agencies, including publicly funded schools;
  - (B) Civic leagues or civic organizations operating exclusively for promotion of social welfare which may from time to time conduct business like activities on a temporary basis, the earnings of which are devoted exclusively to social welfare, religious, and/or fraternal purposes;
  - (C) Independent contractors, including but not limited to medical care providers or beauticians, working in a building where the owner has obtained a business license under one business name covering those located in the building engaged in like profession under the business name indicated on the license;
  - (D) Community events where a special event and other applicable permits have been granted by the City;

- (E) Any business or occupation specifically exempt from the payment of a business license fee under the state or federal law or constitution;
  - (F) Any business specifically exempted by City Council; or
  - (G) Producers of farm products raised in the state and sold by them or their immediate families.
- (7) The following businesses and activities neither need to obtain a business license nor an exemption certificate:
- (A) A service business operated by a person under the age of 18, including but not limited to lawn mowing, newspaper delivery, or lemonade stands;
  - (B) Solicitations for contributions or donations which are exclusively devoted to charitable, social welfare, religious, educational, political, or fraternal purposes;
  - (C) Owner-occupied residential dwellings where one room is rented or leased for sleeping or living purposes;
  - (D) Utilities currently franchised by and paying a franchise fee to the City;
  - (E) A household or garage sale conducted consistent with the terms of the Business License Code;
  - (F) Any activity specifically exempt from licensing under the state law or constitution or federal law or constitution;
  - (G) A warehouse used in connection with a business, but maintained at a separate location within the City, if the business which owns the warehouse maintains a valid business license.
- (8) A general contractor or prime contractor on a construction site is required to have a City of St. Helens business license. Subcontractors are not required to maintain a city business license.

**5.01.005 TERM.**

- (1) A business license shall have a term of one year.
- (2) A business license shall be effective as of the date of issuance and expire on the last day of the same month 12 months therefrom to be renewed annually thereafter no later than the last business day of that month.
- (3) An amended application or re-application for a business shall be made (and be exempt from payment of additional fees), prior to the effective date of any of the events listed below:
  - (A) A transfer in ownership or the name of the business; or
  - (B) A change of business location.
- (4) The business license is deemed expired:

- (A) At the point in time the type of business listed on the business license ceases to operate as said business; or
  - (B) As specified in section (2) above.
- (5) A new application must be made and fees paid when:
- (A) A business license has expired; or
  - (B) A material change in the type of business conducted occurs.

**5.01.006 FEES, GENERALLY.**

- (1) There is imposed upon all persons doing business in the City the requirement to pay a fee established by City Council and obtain a business license for the privilege of doing business in the City.
- (2) Each branch of a business shall obtain a separate business license, except for warehouses used in connection with a licensed business.
- (3) The fee shall be due and payable on the application date of the business license. A fee shall be deemed delinquent 30 days after it is due. License fees are not refundable.

**5.01.007 FEES, CALULATION.**

- (1) The annual fee for a business license shall be set by City Council resolution and be the combination of both a base amount and a charge for each full-time employee or full-time equivalent (FTE) employee, or blended into one fee, tiered by the number of FTEs.
- (2) To determine the number of FTEs, the following applies:
  - (A) Employees normally working 32 or more hours per week throughout the year shall be considered full-time and shall count as one FTE.
  - (B) Employees working less than 32 hours per week or who are temporary or seasonal shall be counted as one-half of an FTE.
  - (C) The annual business license fee shall be based upon the number of employees employed at the time of application for or renewal of a business license.
  - (D) For purposes of determining the number of full-time equivalent employees when renewing an existing business license, the count shall be based on the average of FTE employees during the previous 12-month period.

**5.01.008 APPLICATION PROCEDURE.**

- (1) A person seeking a City business license or renewal shall submit an application for same on a form provided by the City. Application shall be made at least 30 days prior to the date the license is requested to be effective. The application shall contain information as the City Administrator deems appropriate, including, but not limited to, the following:
  - (A) The name, mailing address, telephone, birthdate of all owners;

- (B) The name, mailing address, and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;
- (C) A brief summary of the applicant's business history in any jurisdiction including:
  - (i) The business license or permit history of the applicant; and
  - (ii) Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefore and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation.
- (D) Whether the applicant will be a sole proprietor, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership, or any other form of organization for doing business.
  - (i) If a partnership, the application must set forth the names, birthdates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;
  - (ii) If a corporation or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate bylaws or operating agreement, and the names, addresses, birthdates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, director, member or manager, and shareholder (owning more than 5% of the outstanding shares) and the number of shares held by each;
- (E) Proof of registration of the business with the State of Oregon, if applicable;
- (F) Any other information that the Chief of Police may reasonably feel is necessary to accomplish the goals of these provisions.

A license may be denied if the applicant fails to supply required information or submits false or misleading information.

- (2) On the basis of the application, the City Administrator shall compute the fee consistent with the schedule of fees established by City Council resolution.
- (3) If more than one business takes place at the same location and is operated under the same ownership, or majority ownership, but operates 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.

- (4) If a transfer of ownership, name of business, or a change of business location occurs, an amended application or re-application shall be made and be exempt from payment of additional fees.
- (5) A currently licensed business that physically relocates shall file an amended business license application, at no charge, to register the change of address.
- (6) No such application shall be accepted by the City unless all information contained therein is complete and verifiable.

#### **5.01.009 LICENSE ISSUANCE OR DENIAL.**

- (1) The City Administrator shall issue or renew a business license upon approval of the application and receipt of all required fees.
- (2) The City Administrator may deny issuance or renewal of a business license if the applicant fails to supply required information, pay required fees, or submits false or misleading information.

#### **5.01.010 NOTICE.**

In the event any person has failed to obtain a business license and is doing business in the City, the City's Code Enforcement Officer may:

(A) If the license required has an effective period in excess of one day, send notice to such person at the person's place of business or residence notifying the person that a license must be secured within five calendar days. If, after the five-day period, the person has failed to secure the license, the failure constitutes a violation of the Business License Code; or

(B) If the license requires an effective period of one day, notify the City's Police Department and the Police Department shall notify such person that a license is required immediately. If the notified person refuses to secure a license or attempts to conduct such business, such conduct is a violation of the Business License Code.

#### **5.01.011 LIMITATIONS.**

No license required under this chapter shall:

- (A) Be assignable or transferable;
- (B) Authorize a person other than the one named therein to operate the licensed business or activity; or
- (C) Authorize any other business or activity than set out in the license.

#### **5.01.012 REVOCATION OF LICENSE.**

- (1) The City Administrator may revoke a license upon finding that:
  - (A) Information supplied in the license application is found to be false or misleading.
  - (B) The requirements of this chapter are not being met or the business is in violation of this chapter.



- (C) The business is in violation of applicable local laws including but not limited to the Community Development Code.
  - (D) The business is conducted in a manner or is otherwise contrary to public health, safety, and welfare.
- (2) If the City Administrator determines that grounds for revocation exist, the City Administrator shall cause the licensee to be notified in writing of the revocation, stating the reasons therefore and informing the licensee of the appeal provisions of section 5.01.013. Notice shall be mailed by first-class mail, return receipt requested.
  - (3) The City Administrator may discontinue the revocation proceeding if the basis of the revocation is corrected.

**5.01.013 APPEAL.**

- (1) An applicant whose application to the City for a license has been revoked may, within ten business days after notice of the revocation is received by them, appeal said action to the City Council.
- (2) The appeal shall be in writing and received by the City Recorder's office not later than the fifteen business day after the notice is shown to have been received and set out the following:
  - (A) The name and address of the appellant;
  - (B) The nature of the determination being appealed;
  - (C) The reason the determination is being appealed;
  - (D) What the correct determination of the appeal should be.
- (3) Failure to have the appeal in the City Recorder's office within 15 business days will result in loss of the appeal.
- (4) If a notice of revocation is timely appealed, the revocation does not take effect until the final determination of the appeal. The City Council shall hear and determine the appeal based on the written statement and such additional evidence as it deems appropriate.

**5.01.014 POSTING OF LICENSE.**

- (1) The license shall be posted in a conspicuous place upon the business premises, available for inspection by the public, city enforcement officers, employees, and prospective employees of the business.
- (2) The license for a mobile business shall be posted in a conspicuous place upon the vehicle or carried on the person doing business and be available for inspection by the public, city enforcement officers, employees, and prospective employees of the business.

- (3) The license for a solicitor shall be carried on the person doing business and be available for inspection by the public, city enforcement officers, employees, and prospective employees of the business.

#### **5.01.015 PENALTY.**

- (1) It is unlawful for any person to make any false or misleading statement to the City for the purpose of determining the amount of any license fee to be paid to the City, or to fail or refuse to comply with any of the provisions of this chapter.
- (2) All persons doing business within the City for which a business license is required by this chapter shall make all records showing the number of employees or persons engaged in the business available to the City at its request for purposes of auditing and verifying license fees charged based upon employee counts. Such records shall be held to the extent permitted in confidence consistent with state law.
- (3) A business license fee due from any person and not paid in full when due is delinquent, and the City may avail itself of any and all remedies available to it to collect the fee from that person.
- (4) A person required by this chapter who fails to timely secure a license under this chapter before becoming delinquent is in violation of this code. The City shall collect, in addition to the appropriate license fee and other fines assessed, an additional penalty of 10% of the fee for each calendar month or fraction thereof the license is delinquent, up to a maximum total of fines and penalties of \$1,000.
- (5) In the event any provision of this chapter is violated by an entity, the officer(s) or person(s) in charge shall be personally liable for the penalties imposed by this section.

### **5.02 SPECIAL EVENTS, TEMPORARY, AND MOBILE BUSINESS LICENSE PERMITS**

#### **5.02.001 LICENSE REQUIRED.**

- (1) No person shall hold a special event or operate a temporary or mobile business, as those terms are defined in 5.01, without first obtaining a temporary business license and paying the required fee.
- (2) Applications for a temporary business license shall be on a form provided by the City. Incomplete applications, or applications submitted without the required fee, are subject to denial.
- (3) Issuance of a temporary business license is not to be construed to mean a permit. The fees prescribed herein are for revenue purposes and are not regulatory permit fees.
- (4) The operator of a special event, temporary or mobile business must provide written permission from the property owner, leasing agent, or manager of a site at which the business will operate.

**5.02.002 FEES.**

- (1) The fee for a temporary business license shall be set by City Council resolution and is not refundable.

**5.02.003 LICENSE DISPLAYED.**

- (1) The operator of a special event, temporary or mobile business shall post the temporary business license in a conspicuous place at the business and keep it posted during the entire period covered by the license. The temporary business license shall be available for inspection by the public, City enforcement officers, employees, and prospective employees of the business.
- (2) A special event, temporary or mobile business shall obtain any other required licenses, approvals, or permits from the appropriate agency including but not limited to the City Police, Fire District and/or County Public Health Department.

**5.02.004 LICENSE AND FEE EXEMPTIONS.**

- (1) The exemptions described in Chapter 5.01 apply to special events, temporary or mobile businesses.

**5.02.005 DENIAL, REVOCATION, OR SUSPENSION OF TEMPORARY LICENSE.**

- (1) If the information supplied in the application or renewal is false, contains a material misrepresentation or omission as to the current condition of the business, the temporary business license may be denied, revoked, or suspended until such time as the applicant provides accurate information.

**5.02.006 APPLICATION FOR A TEMPORARY LICENSE FOR A MOBILE BUSINESS, TEMPORARY BUSINESS, OR SPECIAL EVENT.**

- (1) An application for a temporary business license shall require payment of the license fee for each location of the business.
- (2) When a mobile business, temporary business or special event conducts business at any location for more than two hours at one time, the license application shall include the following information:
  - (A) Tax assessor's map and tax lot numbers for the sites proposed;
  - (B) Names and locations of adjacent streets;
  - (C) Addresses and location of any permanent structures on the site;
  - (D) Locations of all driveways on the sites and on adjacent properties;
  - (E) Location of all drive aisles and fire lanes on the sites;
  - (F) Diagram of on-site parking lot and parking space configuration (i.e., right-angle vs angled, single-loaded vs double-loaded);
  - (G) Proposed location of the business vehicle on the sites;

- (H) Dimensions from proposed temporary structure or vehicle location to all structures, drive aisles, and driveways;
- (I) Location of any temporary electrical hookups;
- (J) Location of any furniture, trash receptables, and the like, to be placed in the immediate vicinity of the vehicle or business operation;
- (K) Documentation demonstrating compliance with minimum parking requirements; and
- (L) Documentation showing the consent of the property owner.

### **5.03 SECONDHAND DEALERS**

#### **5.03.001 PURPOSE AND SCOPE.**

This subchapter is designed:

- (1) To provide for regulation of certain business activities the City Council believes present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of personal property. Despite the best efforts of legitimate businesses to prevent it, this risk is present because of the large volume of goods processed in such businesses which can be subject to theft; and
- (2) To reduce criminal activity by providing more timely police awareness of business transactions involving materials which may have been obtained through illegal means.

#### **5.03.002 DEFINITIONS.**

As used in this subchapter, the singular includes the plural, and the following words and phrases, unless the context requires otherwise, shall have the following meanings:

- (1) "ANTIQUÉ" means an item of personal property possessed or valued because of its character, craft, style, rarity, and association with an earlier period of time that is purchased for more than \$50 by an antique dealer. ANTIQUÉ does not include vehicles and/or vehicle components.
- (2) "ANTIQUÉ DEALER" means a person engaged in, conducting, managing, or carrying on the business of selling antiques acquired by purchasing antiques from any person not representing a bona fide business, who appears with the article at the dealer's place of business, or by acquiring such items by purchasing from another bona fide, legitimate, and reputable business.
- (3) "ARTICLE" means an antique, secondhand, or precious metal and gem, as defined by this section.
- (4) "CHIEF OF POLICE" means the City of St. Helens Chief of Police or the Chief of Police's designee.

- (5) "DEALER" means a person operating as an antique dealer, precious metal and gem dealer, or secondhand dealer, or any of them.
- (6) "PRECIOUS METAL AND GEM" means any metal or gem that is valued for its character, rarity, beauty, or quality, including gold, silver, platinum, diamonds, rubies, sapphires, and pearls, and any other gems, whether as a separate item or in combination as a piece of jewelry, but excluding the following items:
  - (A) Gold bullion bars (0.995 fine or better);
  - (B) Silver bullion bars (0.995 fine or better); and
  - (C) Coins, whether actual currency or commemorative, from all countries.
- (7) "PRECIOUS METAL AND GEM DEALER" means a person engaged in, conducting, managing, or carrying on the business of selling precious metals and gems acquired by purchasing precious metals and gems from any person not representing a bona fide business, who appears with such article at the dealer's place of business, or by acquiring such items by purchasing from another bona fide, legitimate, and reputable business.
- (8) "PURCHASE" means transfer of an article from a person or business, including persons not representing a bona fide business, to any dealer regulated by this subchapter, for any valuable consideration. PURCHASE does not include consignment of property for sale.
- (9) "SECONDHAND ARTICLES" includes the following used personal property:
  - (A) Electronic equipment and/or digital devices and their accessories, including but not limited to recording devices, televisions, radios, stereos, speakers, amplifiers, cameras, camcorders, projectors, DVD players, and VCRs;
  - (B) Communication devices such as telephones, walkie-talkies, and cell phones;
  - (C) Household items and appliances such as microwave ovens, sewing machines, silverware, dishes, air conditioners, home accessories, and the like;
  - (D) Personal items such as clothing, jewelry, and watches;
  - (E) Firearms;
  - (F) Maintenance and landscaping equipment including but not limited to power tools, lawn mowers, edgers, trimmers, chainsaws, routers, air compressors, wrench sets and socket sets; and
  - (G) Office equipment, including but not limited to computers, typewriters, calculators, copy machines, and fax machines.
- (10) "SECONDHAND DEALER" means a person engaged in, conducting, managing, or carrying on the business of selling goods and articles acquired by purchasing secondhand articles from any person not representing a bona fide business, who

appears with such article at the dealer's place of business, or by acquiring items by purchasing from another bona fide, legitimate, and reputable business.

**5.03.003 DEALER'S PERMIT REQUIRED.**

No person shall engage in business as a dealer in the City without first obtaining a permit from the City and paying a dealer's permit fee set by City Council resolution. This dealer's permit is separate from the requirement to obtain a business license as required by the terms of 5.01.

**5.03.004 DEALER'S PERMIT APPLICATION.**

Application for a dealer's permit under 5.03 shall be made on a form provided by the City.

**5.03.005 APPLICATION REVIEW.**

Applications for a dealer's permit shall be reviewed by the Chief of Police or designee who shall review and then approve or deny issuance of a dealer's permit consistent with the provisions of 5.03.006.

**5.03.006 PERMIT PROCEDURE.**

A dealer shall apply for a dealer's permit in the following manner:

- (1) No dealer's permit shall be issued unless the applicant is operating from a fixed location in the City.
- (2) An applicant for a dealer's permit shall complete and submit an application (including required personal history forms) that sets forth the following information:
  - (A) The name, mailing address, telephone, birthdate, social security number and principal occupation of all owners and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;
  - (B) The name, mailing address, and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;
  - (C) The web address of any and all web pages used to acquire or offer for sale articles on behalf of the dealer, and any and all internet auction account names used to acquire or offer for sale articles on behalf of the dealer; and
  - (D) Written proof that all principals are at least 18 years of age.
  - (E) The business license and permit history of the applicant in operating a business identical to or similar to those regulated by these provisions.
  - (F) A brief summary of the applicant's business history in any jurisdiction including:
    - (i) The business license or permit history of the applicant; and
    - (ii) Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefore and the

business activity or occupation of the applicant or principal subsequent to the suspension or revocation.

- (G) Whether the applicant will be a sole proprietor, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership, or any other form of organization for doing business.
  - (i) If a partnership, the application must set forth the names, birthdates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;
  - (ii) If a corporation or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate bylaws or operating agreement, and the names, addresses, birthdates, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, director, member or manager, and shareholder (owning more than 5% of the outstanding shares) and the number of shares held by each;
- (H) If the applicant does not own the business premises, a true and complete copy of the executed lease, and the legal description of the premises to be permitted, must be attached to the application; and
- (I) All arrests or convictions of each principal.
- (J) Upon request, principals and employees shall submit to the City Police Department the following information:
  - (i) Fingerprints;
  - (ii) Passport size photographs; and
  - (iii) A copy of the signature initials to be used by persons on article transaction report forms. Principals and employees must submit new photos if requested to do so by the City Police Department.
- (K) Any other information that the Chief of Police may reasonably feel is necessary to accomplish the goals of these provisions.

### **5.03.007 ISSUANCE OR DENIAL.**

The City Administrator shall issue a dealer's permit if the Chief of Police is assured that the dealer applicant and employees of the dealer have satisfied the conditions set out in 5.03.006. If the Chief of Police determines that the dealer's application should be denied, the Chief shall notify the applicant in writing. The notice shall state the reason for denial and inform the applicant of the review and appeal provisions in Chapter 5.01.

### **5.03.008 REVIEW OF DENIAL.**

An applicant for a dealer's permit whose application is denied may have the decision reviewed by the City Administrator by filing a written request with the City Administrator within ten days of the notice of denial from the Chief of Police. The City Administrator shall send a written notice of the decision to the applicant. A decision of the City Administrator which upholds a denial may be appealed to the City Council as provided by Chapter 5.01.

### **5.03.009 REVOCATION AND SUSPENSION.**

- (1) Along with the other regulatory enforcement authority granted in these provisions, the Chief of Police may revoke or suspend any permit issued to a dealer:
  - (A) For any cause that would be grounds for denial of a permit;
  - (B) Upon finding any violation of the provisions of this code relating to dealers;
  - (C) Upon a finding of a violation of federal, state, or other local law being committed connected with the operation of the dealer's business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were occurring;
  - (D) A lawful inspection has been refused; or
  - (E) If any statement contained in the application for the permit is false.
- (2) The Chief of Police, upon revocation or suspension of any permit issued pursuant to these provisions, shall give the dealer written notice of the revocation or suspension.
  - (A) Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
  - (B) Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.
- (3) Revocation will be effective and final ten days after the giving of notice unless the revocation is appealed.
- (4) Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days.

### **5.03.010 DEALER REGISTER.**

- (1) Dealers shall keep a book register of all articles purchased by the dealer. The register shall contain a full, true, and complete description of the subject article, including any engraved identifying number, mark, or symbol.
- (2) The register shall show the hour and the day the article was received and the amount paid. In addition, the register shall include the name, address, and signature of the person from whom the purchase is made. The name and address shall be verified by obtaining two pieces of identification at the time of purchase.



- (3) The register information on a purchase shall be retained by the dealer for a period of not less than one year. Upon request, the Chief of Police shall be allowed to review the register and any articles in possession of the dealer and subject to Chapter 5.03. Inspection of register and articles shall be during regular business hours.
- (4) Each article identified in the dealer's register shall be identified in the register with a number, letter, or symbol. The article itself, while in possession of the dealer, shall be identified by placing that number, letter, or symbol on the article.

#### **5.03.011 DEALER REPORT AND HOLDING OF ARTICLE.**

- (1) All dealers shall, at the time of purchase of an article, complete the form provided by the Chief of Police. Completed forms must be returned to the Chief of Police not later than the next business day following the purchase. Placing the completed form in the mail not later than the next business day following the purchase shall be considered timely return. Postmark of the mailing of the completed form shall be verification of the timeliness of the return.
- (2) Each article, subject to this subchapter, shall not be sold or otherwise disposed of for a period of 15 days from the date of purchase. Notwithstanding this requirement, the Chief of Police may authorize, in cases in which it is shown that extreme financial hardship will result from holding an article for the 15-day period, sale or transfer of such article before the expiration of this period. Any authorization to sell an article prior to the expiration of 15 days shall be in writing.
- (3) If the Chief of Police, upon reasonable suspicion, believes that an article is the subject of a theft, notifies the dealer in writing not to dispose of any specifically described article, the article shall be retained in substantially the same form and shall not be sold, exchanged, dismantled, or otherwise disposed of for a period of time, not to exceed 30 days, as determined by the Chief of Police.

### **5.04 LIQUOR LICENSES**

#### **5.04.001 PURPOSE.**

The purpose of this Chapter is to implement guidelines allowing the City an opportunity to review and make written recommendations on liquor license applications before applications are considered by the Oregon Liquor Control Commission (OLCC). A new liquor or annual renewal liquor license application shall be processed in accordance with sections in 5.01. Special event winery and/or grower licenses and temporary sales liquor licenses shall be processed in accordance with 5.04.005.

#### **5.04.002 LIQUOR LICENSE APPLICATION NOTICE AND FEES.**

- (1) Any person or business submitting an initial or renewal application for a liquor license with the OLCC shall also provide written notice of such application to the City.

- (2) The notification shall consist of legible copy of the OLCC's Liquor License Application form
- (3) Any person or business seeking an initial or renewal liquor license shall also complete the City's Commercial Business License Application.
- (4) Any person or business seeking an initial or renewal liquor license shall pay the requisite associated fees, as established by the City Council and listed in the City of St. Helens Universal Fee Schedule.

#### **5.04.003 LIQUOR LICENSE APPLICATION REVIEW PROCESS.**

- (1) Upon receipt of the written notice and fees required by 5.04.002, the City Administrator or designee shall cause the liquor license application to be reviewed by the Chief of Police or designee and/or any other department manager, for the purpose of obtaining information necessary to make a recommendation.
- (2) The Chief of Police or designee who is authorized to perform a criminal records check through a law enforcement data system (LEDS), is authorized to conduct a criminal and/or driver records check on the applicant or licensee requesting a liquor license in the City, including persons who are an employee, volunteer, or agent of a holder of the liquor license.
- (3) The Chief of Police or designee shall review the suitability of the liquor license application, including criminal and/or driver records, and make recommendation to the City Council based on the findings.
- (4) If the Chief of Police or designee finds no basis for an unfavorable recommendation, the matter shall be scheduled as a consent agenda item before the City Council.
- (5) If the Chief of Police or designee finds there are valid grounds to make an unfavorable recommendation, based on substantial evidence relevant to the license refusal basis as prescribed by state liquor laws (ORS Chapter 471), the matter shall be scheduled as a public hearing before the City Council and notice to the applicant or licensee shall be given by registered mail, postmarked no later than seven business days prior to the public hearing at which the matter will be considered.
- (6) The public hearing notice shall state the time and place of the hearing and reason(s) for making an unfavorable recommendation.
- (7) Any person wishing to present testimony at the public hearing shall be given an opportunity to do so before the closing of the hearing.
- (8) After due consideration of pertinent information and testimony, the City Council shall make its recommendation.
- (9) In case of an adverse recommendation, based on substantial evidence relevant to the license refusal basis as prescribed by state liquor laws, findings shall be produced and forwarded to the OLCC along with the City Council recommendation.

#### **5.04.004 TIMEFRAMES FOR RECOMMENDATION**

- (1) Within 45 days of receipt of the written notice by the City for a new liquor license, the City shall provide the OLCC with:
  - (A) A favorable recommendation;
  - (B) An unfavorable recommendation; or
  - (C) A request additional time from the OLCC stating the reason needed for additional time, a statement that the City is considering making an unfavorable recommendation, and the specific grounds on which the City is considering making an unfavorable recommendation.
- (2) Within 60 days of receipt of the written notice by the City for a renewal of a liquor license, the City shall provide the OLCC with:
  - (A) A favorable recommendation;
  - (B) An unfavorable recommendation; or
  - (C) A request additional time from the OLCC stating the reason needed for additional time, a statement that the City is considering making an unfavorable recommendation, and the specific grounds on which the City is considering making an unfavorable recommendation.

#### **5.04.005 SPECIAL EVENT/TEMPORARY LIQUOR LICENSE.**

- (1) In order to expedite service to applicants or licensees seeking written recommendation for a special event or temporary sales liquor license, the City Council delegates to the City Administrator or designee its authority to review special event winery and/or grower permits and temporary sales liquor license applications and make recommendation to OLCC.
- (2) The City's special event and temporary sales liquor license rules, fees, and recommendation shall be as follows:
  - (A) The applicant or licensee shall pay prior to processing a special event permit or temporary sales liquor license application, an application fee, set in the maximum amount allowed by state law, and as specified by City Council resolution. The City's application processing fee shall be nonrefundable.
  - (B) The applicant or licensee must verify, if applicable, that he or she has obtained a valid City temporary business license for an event held in the City. Special events are subject to the provisions of Chapter 5.01, business license required.
  - (C) In case of an adverse recommendation, the City Administrator or designee shall comply with the guidelines prescribed in chapter 5.04.002 and 5.04.003.

- (D) The City Administrator or designee may refuse to accept any liquor license application if the applicant or licensee has not allowed at least seven days before the event date to obtain recommendation from the City and/or the liquor license application was not submitted in the form prescribed in 5.04.002.
- (E) In case of refusal to accept a liquor license permit or application, the City Administrator or designee shall prepare a written letter addressed to the OLCC stating the reason(s) for refusal or non-acceptance of the liquor license permit or application.

## **5.05 SOLICITORS**

### **5.05.001 POSTED.**

- (1) No person shall enter onto any residential or commercial property for the purpose of solicitation where a sign or placard has been posted stating "No Solicitors" or "No Solicitation" or similar words to that effect unless such person has been expressly invited to do so by the person occupying or in control the property.
- (2) Signs posted under this section shall not exceed 12 inches by 12 inches in dimension and otherwise comply with the City's sign regulations.

### **5.05.002 HOURS.**

Permitted solicitation shall only occur between the hours of 9:00 a.m. and 7:00 p.m.

### **5.05.003 BUSINESS LICENSE REQUIRED.**

Except for not-for-profit organization fundraising, any person conducting door-to-door solicitation within the City limits is required to obtain a business license pursuant to Chapter 5.01 and produce the business license upon request by the person occupying or in control of the property. A person associated with a not-for-profit organization shall provide, upon request, other sufficient form of identification demonstrating the person's association with the organization.

### **5.05.004 REMOVAL OF SIGNS.**

No person shall remove, deface, destroy, or otherwise interfere with the posted signs unless authorized to do so by the person occupying or in control of the property.

### **5.05.005 PENALTIES.**

A violation of any of these provisions of this chapter shall constitute a Class C Misdemeanor.

## **5.06 MARIJUANA RELATED ACTIVITIES**

### **5.06.001 STATEMENT OF PURPOSE.**

The purpose of this subchapter is to promote the public health, safety, and general welfare by establishing standards in the City for the operation of marijuana-related activities as allowed by state law.

### **5.06.002 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (1) "MARIJUANA-RELATED ACTIVITIES" means an activity involved with the growing, processing, wholesaling, or selling of marijuana, cannabinoid product, cannabinoid concentrate, or cannabinoid extract regulated by the Oregon Health Authority or the Oregon Liquor Control Commission.
- (2) "MARIJUANA ITEMS" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts, as further defined in ORS 475B.015.
- (3) "MARIJUANA RETAILER" means a person that sells marijuana items to a consumer in this state and who holds a retail license issued by the Oregon Liquor Control Commission.
- (4) "RETAIL SALE PRICE" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.
- (5) "MARIJUANA" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and marijuana seeds. It does not include industrial hemp or prescription drugs including those containing one or more cannabinoids that are approved by the United States Food and Drug Administration and dispensed by a pharmacy.

### **5.06.003 REQUIREMENTS.**

- (1) A marijuana-related activity must comply with all applicable requirements of state law.
- (2) A marijuana-related activity must obtain a City business license pursuant to section 5.01 prior to opening.
- (3) All products and paraphernalia sold to the public or members of a club or organization must be enclosed in an opaque bag or container upon exiting a dispensary or retail facility.
- (4) A marijuana-related activity must provide secure disposal or render impotent marijuana remnants or by-products, including any item with marijuana residue.
- (5) Fees for licenses required by this chapter shall be set by resolution of the City Council.

#### **5.06.004 CHARACTERISTICS OF LICENSE.**

- (1) Nontransferable. A license issued pursuant to this chapter is nontransferable.
- (2) Term. A license issued pursuant to this subchapter shall remain in effect until such time as:
  - (A) The person who obtained the license ceases to operate the marijuana-related business;
  - (B) The person who obtained the marijuana-related business license ceases to possess a valid authorization from the Oregon Liquor Control Commission or Oregon Health Authority to legally operate in the state of Oregon;
  - (C) The person who obtained the marijuana-related business license ceases to comply with the provisions of Chapter 5.04 SHMC or this chapter; or
  - (D) State statutes, regulations, or guidelines are modified, changed, or interpreted in such a way by state or federal law enforcement officials so as to prohibit operation of a business under this chapter.
- (3) The City may revoke a marijuana-related business license upon a finding that the license is no longer in effect, pursuant to subsection (2) of this section. An aggrieved person may appeal the City's decision to City Council by filing a written notice of appeal with the City Recorder within 10 days of the City's decision to revoke the license.

#### **5.06.005 TAX IMPOSED.**

As authorized by ORS 475B.491, the adoption by City Council of Resolution No. 1753 on July 20, 2016, and the approval of Ballot Measure 5-260 by the electors of the City, a three percent (3%) tax shall be imposed on the retail sale price of all marijuana items sold by a marijuana retailer in the City.

#### **5.06.006 COLLECTION OF TAX AND PENALTIES**

- (1) The tax shall be collected at the point of sale and remitted by each marijuana retailer that engages in the retail sale of marijuana items. The tax is considered a tax upon the Marijuana Retailer that is required to collect the tax, and the Marijuana Retailer is considered a taxpayer.
- (2) Marijuana Retailer shall file a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter and shall pay the tax not later than with each quarterly return.
- (3) Marijuana Retailer may seek an extension of not more than 30 days from the Department of Revenue for filing a return by submitting a written request to the Department of Revenue during or prior to the period for which the extension may be granted.

- (4) Interest shall be added at the same rate established under ORS 305.220 from the time the return was originally required to be filed by the Marijuana Retailer to the time of payment.
- (5) If Marijuana Retailer fails to file a return or pay the tax, a penalty shall be imposed by the Department of Revenue upon the Marijuana Retailer in the manner provided under ORS 314.400.

#### **5.06.007 DUTY TO KEEP RECEIPTS, INVOICES AND OTHER RECORDS.**

- (1) Marijuana Retailer shall keep receipts, invoices and other pertinent records related to retail sales or marijuana items as required by rules or regulations adopted pursuant to this subchapter. Each record shall be preserved for five years from the time to which the record relates, or for as long as Marijuana Retailer retains the marijuana items to which the record relates, whichever is longer. During the retention period and at any time prior to the destruction of records, the City may give written notice to the marijuana retailer not to destroy records described in the notice without written permission of the City.
- (2) The City or its authorized representative or designee, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of marijuana items and any other investigations as the City deems necessary to carry out the provision of this subchapter.

#### **5.06.008 RULES AND REGULATIONS.**

The City Administrator or their designee may establish rules and regulations necessary to implement the provisions of this subchapter. For the purposes of this section, the City Administrator's designee may include the Oregon Department of Revenue pursuant to an agreement entered into under ORS 305.620.

#### **5.06.009 PENALTY.**

- (1) Notwithstanding the provisions of section 5.01, a person who commits, permits, assists in, or attempts a violation of any provision of 5.06 is subject to a civil penalty in the amount of not less than \$100 for the first violation, \$500 for the second violation, and \$1,000 for each subsequent violation within a two-year period starting from the issuance of the first notice of violation.
- (2) Each day during which any provision of 5.06 is violated constitutes a separate offense.
- (3) A violation of the provisions of this chapter shall constitute a class C misdemeanor.

Read the first time: November 4, 2020  
Read the second time: November 18, 2020

**APPROVED AND ADOPTED** this 18th day of November, 2020 by the following vote:

Ayes:

Nays:

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Rick Scholl, Mayor

ATTEST:

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Kathy Payne, City Recorder