

ORDINANCE BILL NO. 12 FOR 2020

ORDINANCE NO. ____

SWEET HOME ORDINANCE PERTAINING TO THE LICENSING OF BUSINESSES WITHIN THE CITY

WHEREAS, the City of Sweet Home desires to provide for the health, safety, and welfare of the citizens and businesses of Sweet Home by requiring all businesses operating within the City to obtain a City Business License.

NOW THEREFORE,

The City of Sweet Home does Ordain as follows:

Section 1. Sweet Home Municipal Code Chapter 5.10 titled BUSINESS LICENSES is created to read as follows:

§5.10.010 Purpose.

This chapter is enacted for the purpose of providing for the health, safety, and welfare of the citizens and businesses of Sweet Home by requiring all businesses within the corporate limits of the City of Sweet Home to obtain a City Business License.

§5.10.020 Definitions.

As used in this chapter, except where the context indicates otherwise, the following definitions apply:

BUSINESS. An individual, shop, firm, company, corporation, association or partnership conducting any trade, profession, occupation or pursuit for gain. This definition includes, but is not limited to, non-profit organizations which sell food or liquor, and home occupations.

CITY. The City of Sweet Home, a municipal corporation of the State of Oregon.

EMPLOYEE. Any person working for, within or under the auspices of a business, other than a certified independent contractor or leased employee, including common law and statutory wage-earning, commission and salaried employees; executive and common employees; agents; sales representatives; sole proprietors; partners; corporate officers and any and all persons associated directly with the business, whether full- or part-time.

EXCLUSIVELY LICENSED BUSINESSES. Businesses exclusively licensed by the state of Oregon, or the activities of which are exclusively subject to regulations by the United States as being solely interstate in character.

GARAGE SALE. A commercial activity, open to the public, conducted at a private residence where personal property is sold or auctioned to others, provided the number of sale days at a

particular residence does not exceed 3 days per occurrence and no more than 2 occurrences per calendar year.

LICENSE or *BUSINESS LICENSE*. The document issued by the city granting the privilege to carry on a particular business or pursue a certain occupation within the city.

NON-PROFIT. Any business or organization which holds a certificate of exemption from taxes from the Internal Revenue Service.

PLACE OF BUSINESS. A business location inside the city of Sweet Home, which meets all City ordinances, within a permanent structure or building which rest on a permanent foundation and which substantially complies with the Uniform Building Code or at a fixed location on public or private property not within a permanent structure.

TRANSFER. To transfer the name or ownership of a business, but does not include a change in business location.

§ 5.10.020 Business License Required.

There is hereby imposed upon the businesses a license fee in the amount prescribed by City Council resolution, and it is unlawful for any person to conduct, transact or carry on any such business in the city without first having obtained the license therefore for the current calendar year as herein provided and without first complying with any and all application provisions of this chapter.

§ 5.10.030 Exceptions.

The following activities are exempt from the provisions of this chapter:

- A. Peddlers, Solicitors, and Transient Merchants, as defined and regulated in Chapter 5.12.
- B. Wholesale deliveries to a licensed business from operations based outside the limits of the city.
- C. Casual labor activities performed by minors or others, including, but not limited to, lawn mowing and babysitting services. Childcare facilities are not exempt.
- D. Any activity conducted solely for charitable, religious, community, or public purpose including fairs, festivals, fundraisers, and public entertainment events by nonprofit organizations. A non-profit organization which sells food or liquor on an ongoing basis is not exempt.
- E. Producers of farm products raised in Sweet Home and produced or cultivated exclusively by said producers or their immediate families, shall not be subject to license fees prescribed herein that may apply to the selling of such products if the farm products are sold by themselves or their immediate families exclusively.
- F. Businesses that are exempt from the payment of municipal license fees pursuant to Oregon or federal law.
- G. Any person involved in the home delivery of newspapers, groceries, or other goods purchased outside the city.
- H. Garage Sales entailing the periodic sale of personal property by an individual or group of individuals at their own personal residence, provided the number of sale days at a

particular residence does not exceed 3 days per occurrence and no more than 2 occurrences per calendar year.

- I. Any person, contractor, consultant, firm, company or corporation who do not normally conduct business from or in, or otherwise occupy, a particular site, location or structure within the city limits.
- J. Governmental bodies and their administrative agencies which are engaged in governmental functions.
- K. Other businesses or business related activities that, due to their minimal activities, may be declared exempt by the City Manager.

§ 5.10.040 License Application and Procedure.

- A. All business licenses required under this chapter or any other ordinance shall be issued by the City Manager or designee. Application for all licenses shall be made to the City on forms prescribed by the city. The application for any permit shall contain the following information:
 - 1. The description of the business carried on within the city.
 - 2. The name of the applicant, with a statement of all persons having an interest in the business, either as proprietors or owners of the business.
 - 3. The location at which the business is conducted.
 - 4. Contact information for the owner or manager, including phone number, email address and mailing address.
 - 5. The date of application.
 - 6. The amount of the fee collected with the application.
- B. The following additional items may be required at the sole discretion of the City Manager or designee:
 - 1. Proof of the applicant's possession of any permits, certificates, or registrations that are required by city, county, state or federal laws to conduct the type of business listed on the application.
 - 2. Site plan of the area where the structure will be located. The site plan shall clearly show any parking spaces, which may be impacted, any necessary driving lanes, utility pole locations, nearby buildings, and sidewalks.
 - 3. Proof of compliance with all applicable building codes.
 - 4. If food or beverages is to be sold, then the applicant shall provide a copy of proof of the applicable food handler's license from Linn County.
 - 5. Any other information necessary to enable the city to review the application and to determine the appropriate fee as established by resolution of the Council. If on private property, a signed letter of authorization from the property owner, or copy of lease agreement.
- C. The City Manager shall refer each application to the appropriate departments for review. Review of the application shall be based on consideration of all available evidence as to whether the business will meet the requirements of the city charter and ordinances. The permit may be denied if:
 - 1. The application is incomplete.
 - 2. The activity to be permitted would not comply with city ordinances or state laws.
 - 3. The permitted activity would endanger property or the public's health or safety.

4. The applicant's violation of law or ordinance represents a reasonable doubt about the applicant's ability to perform the permitted activity without endangering property or the public's health or safety.
 5. The applicant fails to supply the information required, or submits misleading or false information, or submitted misleading or false information on a previous application.
- D. Upon a favorable recommendation from each department, the City Manager or designee shall issue the permit. If the application is denied, the City Manager or designee shall notify the applicant in writing of the denial and the reasons for denial.
 - E. The City Manager or designee shall issue or deny the permit within 10 business days of receiving the application.
 - F. Approved business licenses shall remain on file in the City Manager's Office and a copy shall be provided to the Sweet Home Fire District.

§ 5.10.050 Multiple Businesses at Same Location—Branch Office—Professional Offices.

- A. If more than one business takes place at the same location and is operated under the same ownership, but is operated under more than one business name, one application may be filed, provided each business is clearly identified and all relevant information is included in the unified application.
- B. Each branch establishment of a business or location of a business conducted by any person shall, for the purposes hereof, be treated as a separate business subject to the registration provided for in this chapter. Warehouses used incidentally with a duly registered business shall not be deemed to be a separate place of business or branch establishment.

§ 5.10.060 Transfer of License.

- A. The license shall be the property of the applicant, and may not be assigned or transferred.
- B. Business licenses shall be void if the name of the business changes, the location of the business changes, ownership changes or the business goes out of business.

§ 5.10.070 False Information

It is unlawful for any person to supply false information in connection with any application required by this chapter with intent to obtain a permit or license required in this chapter.

§ 5.10.080 Revocation of License.

A business license may be revoked on any one or more of the following grounds:

- A. Approval of the business license was obtained by fraud or misrepresentation;
- B. The use for which approval was granted has ceased to exist;

- C. The use does not meet the conditions specifically established for it at the time of approval of the application;
- D. The business is in violation of any other applicable statute, ordinance or regulation.

§ 5.10.090 Appeals.

- A. Any person whose application for a permit has been denied, or whose permit has been denied renewal, has been suspended or has been revoked, may, within 30 days after the notice of denial, suspension, or revocation is mailed, appeal in writing to the City Council. The appeal shall state:
 - 1. The name and address of the appellant.
 - 2. The nature of the determination being appealed.
 - 3. The reason the determination is incorrect.
 - 4. What the correct determination of the appeal should be.
- B. An appellant who fails to file a statement within the time permitted waives all objections, and relinquishes all rights to appeal. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. At the hearing, the appellant may present testimony and oral argument. The decision of the Council is final.
- C. An appellant may continue operating until the Council reaches a decision on the appeal.

§ 5.10.100 Expiration and Renewal.

- A. The license year shall commence January 1 in each year and shall terminate at midnight, December 31, of the same year; provided, however, that all businesses required to pay a license fee in the amounts hereinafter prescribed shall apply for a license under the terms of this chapter not later than February 1 of the year for which the license is needed, and failure so to do shall be a violation of this chapter and subject to the penalty provisions herein.
- B. The license fee set by resolution shall be due and payable on January 1 of each year for the calendar year commencing with such date and shall be delinquent on and after the following February 1.
- C. Licenses for persons who first begin engaging in a business after January 1 in any year shall be due and payable prior to such person engaging in business. All license fees shall be delinquent if not paid within 10 days after due.

§ 5.10.110 Violations and Penalties.

- A. Violation of this chapter constitutes a violation and may be prosecuted under the provisions of Chapter 9.36 and any amendments thereto. Each day's violation of a provision of this chapter shall constitute a separate offense.

§ 5.10.120 Disclaimers.

- A. The levy or collection of a license fee shall not be construed to be a license or permit to engage in any business which is unlawful, illegal or prohibited by the laws of the State of Oregon, the County of Linn or ordinances or resolutions of the city.
- B. Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the city. Business license fees, as set by City Council resolution, may be increased or decreased at any time by the City Council. No person having paid the fee required, and having made application for a business license, shall be entitled to any refund.

§ 5.10.130 Severability.

If any portion of this chapter shall be held to be invalid for any reason, the same shall be stricken from the ordinance and the remainder shall be regarded as having been adopted by the Council and shall remain enforceable.

Passed by the Council and approved by the Mayor this ___ day of _____, 2020.

Mayor _____

ATTEST:

City Manager – Ex Officio City Recorder