

# Ordinance No. 00024

[\(Council Minutes 95/12/11\)](#)

## ORDINANCE NO. 24

AN ORDINANCE of the City of Lakewood, Washington, providing for general business licensing regulations

WHEREAS, state law authorizes cities to adopt regulations for licensing of businesses operating within their corporate boundaries; and,

WHEREAS, it would be beneficial and advantageous for the City of Lakewood to have such regulations in order to assist the City in identifying the precise composition of its commercial community, and in order for the City to better determine how to enhance commercial development and incorporate land use regulations and other City regulations.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN THAT GENERAL BUSINESS LICENSING REGULATIONS FOR THE CITY OF LAKEWOOD ARE ADOPTED as follows:

### Section 1. Definitions.

For purposes of this Ordinance, the following definitions shall apply:

- A. "Business" includes all activities engaged in with the object of gain, benefit, or advantage, directly or indirectly.
- B. "Person" means any individual, corporation, company, firm, joint stock company, copartnership, joint venture, trust, business trust, club, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise, receiver, administrator, executor, assignee, or trustee in bankruptcy.
- C. "Tax year" means the calendar year commencing January 1 and ending on December 31.

### Section 2. Business license required.

No person shall conduct, maintain, operate, or engage in any business within the City, during any tax year, without first applying for and obtaining a business license and paying the fee as prescribed herein.

### Section 3. Separate licenses required.

A separate business license shall be obtained for each separate location, within the City, at which the business is conducted. A separate business license shall be obtained for each different and discrete business conducted by any person, whether at the same location, within the City, as another licensed business, or at a different location within the City.

#### Section 4. Change in nature or location of business.

Each business license shall authorize a particular type of business at the designated location. Any change in the nature of the business shall necessitate a new application for a business license. A change of location shall be reported to the Director of Finance, in writing, within ten (10) days of the change and, if in compliance with zoning and business regulatory ordinances, the existing business license shall be transferred to the new location.

#### Section 5. Exemptions.

Notwithstanding the requirement of Section 2 of this Ordinance, the following shall be exempted from the requirement to apply for and obtain a business license:

A. Casual or isolated sales made by persons who are not engaged in the on-going business of selling the type of property involved, providing that not more than four (4) such sales events are made during any tax year.

B. Sales, delivery, or peddling of any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by any farmer, gardener, or other person; provided, that this exemption shall not apply to any person selling, delivering, or peddling any dairy product, meat, poultry, eel, fish, mollusk, or shellfish.

C. Persons engaged in any business within the City which is licensed and regulated by Pierce County pursuant to Interlocal Agreement which specifically provides for an exemption from the licensing requirements of this Ordinance.

D. Minors engaged in baby-sitting or delivery of newspapers.

#### Section 6. Application for license.

No business license shall be issued except upon application therefor made on forms prescribed by the City Manager, or designee. Each application shall be accompanied by the prescribed license fee. Upon approval of the application, the business license shall be issued by the City and be delivered to the applicant. In event of denial, the fee paid shall be returned to the applicant together with notice that the application has been denied.

#### Section 7. Fee.

A. The fee for a license to engage in any business within the City shall be thirty-five dollars (\$35.00) per year unless a different amount is hereafter set by action of the City Council in Ordinance or Resolution of the City. It is provided, however that if a different or additional fee amount is specifically provided in other business license regulations or ordinances of the City, the business license fee(s) shall be as indicated in the applicable business license regulations or ordinances of the City.

B. The license fee shall be for the tax year, and each applicant must pay the full license fee for the current tax year or portion thereof during which the applicant has engaged in business, regardless of when during the tax year the license is obtained.

#### Section 8. General qualifications of licensees.

No license shall be issued to any of the following applicants:

A. Any person who has not attained the age of eighteen (18) years at the time of the application.

B. Any applicant who has been convicted of a crime, or who employs employees or agents who have been convicted of a

crime, which relates directly to the specific business for which the license is sought, provided that the time elapsed between the conviction and the date of license application is less than ten (10) years for a felony conviction, less than five (5) years for a gross misdemeanor conviction and less than three (3) years for a misdemeanor conviction.

C. Any applicant who has suffered a civil judgment based upon fraud, misrepresentation, violation of the Washington Consumer Protection Act, or similar state or federal statutes, or any other judgment or cease and desist order, or consent degree relating to business activities, provided that the time elapsed between the entry of judgment and the date of application is less than five (5) years.

D. Any applicant if reasonable grounds exist to believe that the applicant is dishonest or desires to obtain a business license so as to practice some illegal act or some act injurious to the public health or safety.

E. Any person who, if licensed, is likely to present a danger to the public health, safety, or welfare for any other reason.

#### Section 9. Investigations and inspection.

All applications for licenses shall be investigated by the City Manager, or designee, and business premises may likewise be inspected. Investigations and inspections may also be conducted by designated officials of Pierce County pursuant to Interlocal Agreement.

#### Section 10. Term of license.

All business licenses shall be effective for the tax year of issuance. Licenses issued during a given tax year shall be effective from the date of issue until December 31 of the same tax year. Unless renewed, as provided in this Ordinance, each such business license shall expire and be of no force or effect on January 01 of the following tax year, unless sooner revoked as provided in this Ordinance.

#### Section 11. Posting of license.

It shall be unlawful for any person to engage in business at any location within the City without posting and displaying, prominently and in clear view, the valid business license authorizing such business at such location.

#### Section 12. Renewal of license.

All business licenses shall be renewed on or before January 1 of the tax year of issuance, if the business is to be continued. Application for renewal shall be made on forms prescribed by the City Manager, or designee. Each application for renewal shall be accompanied by the license renewal fee for the ensuing tax year as prescribed by an annual resolution of the City Council establishing fees and charges. Applications for renewal shall be processed hereafter by the City commencing on November 1 of each tax year for the ensuing tax year.

#### Section 13. Penalty for late application.

Any applicant or licensee who shall fail to make application for an original business license, or for renewal of an existing business license, prior to April 30, 1996 for the tax year 1996, and prior to January 31 of the applicable tax year thereafter, shall be subject to a penalty, computed as follows, which shall be added to the prescribed fee:

A. Delinquent from one (1) to fifteen (15) days, inclusive: a penalty of five percent (5%) of the prescribed fee or five dollars

(\$5.00), whichever is greater.

B. Delinquent from sixteen (16) to thirty (30) days, inclusive: a penalty of ten percent (10%) of the prescribed fee or ten dollars (\$10.00), whichever is greater.

C. Delinquent from thirty-one (31) to forty-five (45) days, inclusive: a penalty of fifteen percent (15%) of the prescribed fee or fifteen dollars (\$15.00), whichever is greater.

D. Delinquent from forty-six (46) to sixty (60) days, inclusive: a penalty of twenty percent (20%) of the prescribed fee or twenty dollars (\$20.00), whichever is greater.

E. Delinquent for more than sixty (60) days: a penalty equal to one hundred percent (100%) of the prescribed license fee.

#### Section 14. Duties of the City Manager or designee.

The City Manager or designee is authorized and directed to enforce the terms and provisions of all business license and regulations ordinances. If it is determined, by means of investigation or inspection, that any person has violated or failed to comply with any provision of any business license or regulation ordinance, then the City Manager, or designee, shall issue a notice and order recording such findings, specifying therein the particulars of any such violation or failure to comply, and ordering corrective action, civil penalty, suspension and/or revocation of license.

#### Section 15. Additional rules and regulations.

The City Manager, or designee, is authorized to adopt and enforce rules and regulations, not inconsistent with the provisions of this Ordinance, and any other business license or regulation ordinance, and it shall be unlawful for any person to violate or fail to comply with any of the said rules and regulations. All such rules and regulations promulgated by the City Manager, or designee, shall be reduced to writing, shall be provided to the licensee with each new or renewal business license, or shall be mailed to each licensee for information of the licensee and the licensee's employees and agents. Such rules and regulations shall also be available for public inspection at the offices of the Director of Finance and City Clerk.

#### Section 16. Inspections - Right of entry.

The City Manager, or designee, is authorized to make such inspections of licensed premises and take such action as may be required to enforce the provisions of any business license ordinance. The City Manager may designate any appropriate City employees, and specifically including the Code Enforcement Officer and commissioned police officers, to undertake such inspections. Inspections shall, to the extent possible, be in compliance with the following procedure:

A. An inspector may enter any licensed business location, at any reasonable time, to inspect the same or perform any duty imposed on the City Manager, or designee, by any business license or regulation ordinance.

B. If the place of business is occupied, the inspector shall first present proper credentials and demand entry and right to inspect.

C. If the place of business is unoccupied, the inspector shall first make a reasonable effort to locate the licensee or other person having charge or control of the premises and shall then present proper credentials and demand entry and right to inspect.

D. No licensee, employee or agent, shall fail or neglect, after proper demand, to admit the inspector, acting within the scope of the inspector's employment, to any location licensed for business, or to interfere with the inspector while in the performance of the inspector's duty.

E. Nothing herein shall prevent or prohibit undercover investigations or inspections by appropriate officers in appropriate

circumstances.

#### Section 17. Grounds for suspension or revocation.

No business license issued pursuant to this Ordinance or any other business license or regulations ordinance of the City shall be suspended or revoked without cause. Cause for suspension or revocation shall include, but not be limited to, the following:

- A. The license was procured by fraud or misrepresentation of fact;
- B. The licensee has failed to comply with any of the provisions of this Ordinance;
- C. The licensee, or licensee's employees or agents, have been convicted of a crime, or suffered civil judgment or consent decree which bears a direct relationship to the conduct of the business licensed pursuant to this Ordinance;
- D. The licensee, or licensee's employees or agents, have violated any law or ordinance relating to the regulation of the business licensed pursuant to this Ordinance, or any health or safety ordinance;
- E. The licensee has caused or permitted a public nuisance to exist;
- F. The licensee, or licensee's employees or agents, have engaged in, have permitted or have acquiesced in unlawful drug related activity on the business premises;
- G. Licensee has failed to pay a civil penalty or to comply with any notice and order of the City Manager, or designee;
- H. Licensee's continued conduct of the business will, for any other reason, result in a danger to the public health, safety or welfare.

#### Section 18. Notice and order.

A. The City Manager, or designee, shall issue a notice and order, directed to the licensee whom the Director has determined to be in violation of any of the terms and provisions of any business license or regulation ordinance. The notice and order shall contain:

- 1. The street address, when available, and a legal description sufficient for identification of the premises upon which the violation occurred or is occurring;
- 2. A statement that the City Manager, or designee, has found the application submitted by or the conduct of the licensee to be in violation of any business license or regulation ordinance, with a brief and concise description of the facts or conditions found to render such licensee in violation of such business license or regulation ordinance;
- 3. A statement of any action required to be taken as determined by the City Manager, or designee. If the City Manager, or designee, has determined to assess a civil penalty, the order shall require that the penalty shall be paid within ten (10) days from the date of receipt of the notice and order. If the Director determines to suspend or revoke the license, the order shall require surrender of the licenses to the Director within ten (10) days from the date of receipt of the notice and order.
- 4. A statement advising that the licensee may appeal from the notice and order or from any action of the City Manager, or designee, to the City Hearing Examiner, provided the appeal is made in writing as provided in this Ordinance and filed with the City Clerk within ten (10) days from the date of receipt of the notice and order, and that failure to appeal shall constitute a waiver of all right to an administrative hearing and determination of the matter.

B. The notice and order, and any amended or supplemental notice and order, shall be served upon the licensee either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested to such licensee at the address which appears on the business license.

C. Proof of service of the notice and order shall be made at the time of service by a written declaration under penalty of perjury

executed by the person effecting service, declaring the time, date, and manner in which service was made, or by affidavit of mailing to which shall be attached the postal return receipt or original mailing if returned unclaimed.

Section 19. Appeal from denial or from notice or order.

A. The City Hearing Examiner is designated to hear appeals by applicants or licensees aggrieved by actions of the City Manager, or designee, pertaining to any denial, civil penalty suspension, or revocation of business licenses. The Hearing Examiner may adopt reasonable rules and regulations for conducting such appeals. Copies of all rules and regulations so adopted shall be filed with the Director of Finance and with the City Clerk, who shall make them freely accessible to the public.

B. Any licensee may, within ten (10) days after receipt of a notice of denial of application or of a notice and order, file with the City Clerk a written notice of appeal containing the following:

1. A heading with the words: "Before the Hearing Examiner of the City of Lakewood";
2. A caption reading: "Appeal of \_\_\_\_\_" giving the names of all appellants participating in the appeal;
3. A brief statement setting forth the legal interest of each of the appellants in the business involved in the denial or notice and order;
4. A brief statement, in concise language, of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant or appellants;
5. A brief statement, in concise language, of the relief sought, and the reasons why it is claimed the protested action or notice and order should be reversed, modified, or otherwise set aside;
6. The signatures of all persons named as appellants, and their official mailing addresses;
7. The verification (by declaration under penalty of perjury) of each appellant as to the truth of the matters stated in the appeal.

C. As soon as practicable after receiving the written appeal, the City Clerk shall fix a date, time, and place for the hearing of the appeal by the Hearing Examiner. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing by the City Clerk, by mailing a copy thereof, postage prepaid, by certified mail with return receipt requested, addressed to each appellant at his or her address shown on the notice of appeal.

D. At the hearing, the appellant or appellants shall be entitled to appear in person, and to be represented by counsel and to offer such evidence as may be pertinent and material to the denial or to the notice and order. The technical rules of evidence need not be followed.

E. Only those matters or issues specifically raised by the appellant or appellants in the written notice of appeal shall be considered in the hearing of the appeal.

F. Within ten (10) business days following conclusion of the hearing, the Hearing Examiner shall make written findings of fact and conclusions of law, supported by the record, and a decision which may affirm, modify, or overrule the denial or order of the City Manager, or designee, and may further impose terms as conditions to issuance or continuation of a business license.

G. Failure of any applicant or licensee to file an appeal in accordance with the provisions of this Ordinance shall constitute a waiver of the right to an administrative hearing and adjudication of the denial or of the notice and order.

H. Any party aggrieved by the decision of the Hearing Examiner may appeal that decision to the City Council by filing a written notice of appeal, within ten (10) days after receipt of the decision of the Hearing Examiner, with the City Clerk. The City Clerk shall transmit a complete copy of the Hearing Examiner's record, findings and conclusions, and decision, and all exhibits, to the City Council and shall cause the appeal to be placed upon the agenda of the City Council within thirty (30) days after receipt of the notice of appeal. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing by the City Clerk, by mailing a copy thereof, postage prepaid, by certified mail with return receipt requested, addressed to each appellant at his or her address shown on the notice of appeal.

I. Enforcement of any civil penalty, or suspension or revocation of any business license, or other order of by the City Manager,

or designee, shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

#### Section 20. Appeal by exempted businesses.

Notwithstanding any other provisions of Section 16 of this Ordinance, however, those businesses exempt from the requirement to obtain a City business license, but not exempt from the requirement to obtain a Pierce County business license, pursuant to subsection Section 5C of this Ordinance shall not be entitled to the appeal procedure herein but shall appeal any decision pertaining to denial, suspension or revocation, whether by the City or by Pierce County, pursuant to requirements of applicable provisions of the Pierce County Code.

#### Section 21. Continuation of license upon death of licensee.

In event of the death of any licensee, his or her duly appointed executor or administrator may continue to conduct business under the license issued to the decedent for the unexpired term thereof, upon filing proof of such appointment with the Director of Finance.

#### Section 22. Assignment of licenses.

Every business license shall be personal to the licensee and shall not be assignable or transferable to any person, other than as provided by Section 4 of this Ordinance.

#### Section 23. Civil penalty.

In addition to or as an alternative to any other penalty provided herein or by any other business license or regulation ordinance, any licensee who violates any provision of any business license or regulation ordinance shall be subject to a civil penalty in an amount not to exceed five hundred dollars (\$500.00) per violation to be directly assessed by the City Manager, or designee. The City Manager, or designee, in a reasonable manner, may vary the amount of the penalty assessed in consideration of the size of the business of the violator, the nature of the license required of the violator, the gravity of the violation, the number of past and present violations committed, and the good faith of the violator in attempting to achieve compliance after notification of the violation. All civil penalties assessed shall be enforced and collected by the City by legal action brought for that purpose. This remedy is cumulative and not exclusive.

#### Section 24. Engaging in business without payment of fee.

If any person engaged in business fails or refuses to pay the prescribed license fee for any tax year, such person shall not be granted a business license for the current tax year until all such delinquent license fees and penalties have been paid, in addition to the prescribed fee for the current tax year. Such fees may be collected by the City by legal action brought for that purpose if any person engaged in business fails or refuses to pay the license fees and penalties. This remedy is cumulative and not exclusive.

#### Section 25. Violations - Penalty.

Any person violating or failing to comply with any provision of this title or any other business license or regulation ordinance shall be guilty of a violation of City ordinance and, upon conviction thereof, shall be punished by a fine not exceeding five thousand dollars (\$5,000.00), or imprisonment in jail for any term not exceeding one (1) year, or both.

Section 26. Separate offenses.

Each day that any person engages in any business without having a valid business license or is otherwise in violation of this title or any other business license or regulation ordinance shall constitute a separate offense and may be punished or subjected to civil penalty as such.

Section 27. Severability.

If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 28. Effective date.

This Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary and on February 28, 1996, the official date of incorporation.

ADOPTED by the City Council this 11th day of December, 1995

/S/ Bill Harrison

Mayor

Attest:

/S/ Alice M. Bush

City Clerk

Approved as to Form:

/S/ Daniel B. Heid

City Attorney

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