

# Ordinance No. 00568

[CITY COUNCIL MEETING MINUTES NOVEMBER 4, 2013](#)

Amended

11/4/13

## ORDINANCE NO. 568

AN ORDINANCE of the City Council of the City of Lakewood, Washington amending Sections 5.02.010, 5.02.040, 5.02.080 5.02.190 and creating Section 5.02.171 of the Lakewood Municipal Code relative to General Business Licenses; establishing an Effective Date; and providing severability.

WHEREAS, in Ordinance 548, the City undertook a comprehensive amendment to Chapter 5.2 of the Lakewood Municipal Code relative to General Business Licenses; and

WHEREAS, a number of technical amendments to Chapter 5.02 LMC are warranted; and

WHEREAS, since passage of Ordinance 548, the City has issued several Conditional Business Licenses, and the Code currently does not provide express grounds by which a CBL may be revoked; and

WHEREAS, the current Code does not provide a deadline by which an aggrieved applicant may seek court review, and the addition of such a deadline is desirable for the City and licensees; and

WHEREAS the summary license revocation procedures contained in the current Code should be amended to provide procedural guidance for the City and licensees,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON do ordain as follows:

Section 1. Section 5.02.010 of the Lakewood Municipal Code titled, "Definitions" is amended to read as follows:

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

A. "Business" includes all lawful activities engaged in with the object of gain, benefit, or advantage, directly or indirectly, whether part-time, full-time or seasonal.

B. "Person" means any individual, corporation, company, firm, joint stock company, partnership, limited liability entity, 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, trustee in bankruptcy, or any other group or entity formed for the purpose of engaging in business.

Section 2. Section 5.02.080 of the Lakewood Municipal Code titled, "General Qualifications of Licenses" is amended to read as follows:

Any of the grounds below provide a basis for license suspension, revocation or denial; provided that no business license issued pursuant to this Code shall be suspended, revoked, or denied without cause.

A. Any application to conduct, in whole or in part, activity that is illegal under local, state or federal law.

B. Any applicant, licensee or employee of applicant or licensee who has been convicted

of a crime relevant to the business within ten years for a felony conviction, five years for a gross misdemeanor conviction and three years a misdemeanor conviction.

C. Within the last five years, any applicant, licensee or employee of applicant or licensee who has suffered any of the following which is relevant to the business: a civil judgment, or any other judgment, cease and desist order, notice and order, consent decree, or administrative action, including prior licensing actions.

D. Any applicant, licensee or employee of applicant, licensee or employee of applicant or licensee who has failed to comply with any of the provisions of this Code.

E. Any applicant, licensee or employee of applicant or licensee, if any reasonable grounds exist to believe that such person is dishonest in a manner that is relevant to the business, or that the license was procured by fraud or misrepresentation of fact, or desires to obtain a business license so as to practice some illegal act, some act injurious to the public health, safety or welfare or engaged in unlawful activity

F. Any applicant, licensee or employee of applicant or licensee who has caused, maintained, permitted, allowed or is likely to cause, maintain, permit, or allow a public nuisance to exist. "Public nuisance," in addition to its common meaning, includes but is not limited to a business generating a need for significant police and/or other government services.

G. Any applicant, licensee, or employee of applicant or licensee or their agents have or will engage in, maintain, permit, allow or fail to prevent unlawful activity on the business premises

H. The applicant, licensee or employee of applicant or licensee failed to pay a civil penalty or to comply with any notice and order of the City.

I. If reasonable grounds exist to believe that any applicant, licensee or employee of applicant or licensee is likely to present an adverse impact to the public health, safety, or welfare for any other reason, including but not limited to conduct related to past operations of business.

J. Violation of any rules, regulations or conditions which have been set forth in a Conditional License issued under LMC 5.02.150.

K. The failure to submit a complete license application or the failure to cooperate in an investigation under LMC 5.02.090.

Section 3. Section 5.02.190 of the Lakewood Municipal Code titled, "Appeal From Denial or From Notice or Order" is amended to read as follows:

A. The City Hearing Examiner is designated to hear appeals by applicants or licensees aggrieved by actions of the City pertaining to any denial, or revocation of business licenses, pursuant to chapter 1.36 LMC.

B. Any applicant or 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. The notice of appeal shall contain the following: (1) be conspicuously identified as a notice of appeal; (2) set forth a brief statement setting forth the legal interest of the appellants; (3) a brief statement setting forth the legal interest of the appellants; (4) the specific order or action protested, together with any material facts claimed to support the contentions of the appellants; (5) the relief sought, and reasons why it is claimed, and why 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 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 apply.

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, and may further impose terms and conditions to the 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 Chapter shall constitute a waiver of the right to an administrative hearing and adjudication of the denial or of the notice and order.

H. Excepting those instances where, by law, a different time period applies, a decision by the Hearing Examiner under this Chapter shall be final and conclusive unless within twenty-one (21) days from the date of the decision, a party makes application to a court of competent jurisdiction for appropriate relief.

Section 4. A new Section 5.02.171 of the Lakewood Municipal Code titled, "Stay of Suspension or Revocation -- Summary Suspension" is created to read as follows:

A. Except as otherwise provided in this Section, enforcement of any suspension or revocation of any business license, or other order issued under this Chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

B. Where conditions exist that are deemed hazardous to life or property, or where the licensee or his or her employee or agent has knowingly permitted unlawful conduct, the City is authorized to immediately stop such conditions that are in violation of this Code, up to and including closing the business operation and summary suspension of the business license. Such order and demand may be oral or written.

C. At the time the licensee is notified of any summary suspension, the City Clerk shall also schedule a hearing to be held within 3 business days from the date of the notice of summary suspension and the licensee will be notified by mail, facsimile, email, personal service or hand deliver of the date, time and location of such hearing. Such notices shall state the time and place of the hearing. Such hearing shall be before the City Manager or designee.

D. The decision of the City Manager or designee shall be final. The licensee may, within 10 days from the date of the decision, appeal such suspension or revocation in accordance with LMC 5.2.190. Any summary suspension affirmed by the City Manager or designee shall remain valid and in effect pending the outcome of the appeal, unless stayed pending the outcome of the hearing by the City Manager or the designee who issued the decision or Hearing Examiner.

Section 5. 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 of any other section, sentence, clause, or phrase of this ordinance.

Section 6. Effective Date. This ordinance shall take place thirty (30) days after its publication or publication of a summary of its intent and contents.  
ADOPTED by the City Council this 4th day of November, 2013.

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Don Anderson, Mayor

Attest:

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Alice M. Bush, MMC, City Clerk

Approved as to Form:

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Heidi Ann Wachter, City Attorney