

CITY OF LYONS

ORDINANCE NO. B8-14

AN ORDINANCE REQUIRING BUSINESSES WITHIN THE CORPORATE LIMITS OF THE CITY OF LYONS TO BE LICENSED; DEFINING LICENSE APPLICATION PROCEDURES; PROVIDING PENALTIES FOR VIOLATIONS; AND DECLARING AN EMERGENCY.

THE CITY OF LYONS ORDAINS AS FOLLOWS:

SECTION 1 - PURPOSE

The purpose of this ordinance is to promote the public health, safety and welfare and to assist businesses with police and fire protection by requiring all businesses within the corporate limits of the City of Lyons to obtain a business license.

SECTION 2 - DEFINITIONS

For the purposes of this Ordinance, the following words and phrases mean:

A. **BUSINESS ENTITY:** An individual, firm, company, corporation, association or partnership conducting any trade, profession, occupation or pursuit for gain or a tax-exempt organization which sells food or liquor on its premises. A business entity does not include:

1. Tax-exempt Organizations. Any organization that has an exemption from income taxes, from the Internal Revenue Service and the state of Oregon Department of Revenue, except as noted above;
2. 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;
3. Garage Sales. The periodic sale of personal property by an individual or group of individuals at their own personal residence.

B. **CITY RECORDER:** The individual designated the city recorder or person authorized by the city recorder.

C. **ITINERANT MERCHANT/SOLICITOR:**

1. Any person, representative, or employee of such person who, traveling or not traveling from place to place, carries goods, merchandise, food products to sell, offers to sell, takes or attempts to take orders for the sale of such goods or services or any type of personal property for delivery or performance in the future.
2. This definition includes, but shall not be limited to, persons carrying or exposing for sale a sample of the item for sale or demonstrates the service to be performed, collects advance payments on sales, without making this activity a permanent and continuous business within the city.

3. "Itinerant Merchant" includes peddler, hawker, and huckster.
4. "Solicitor" includes canvasser, except where such person is eliciting information, not in contemplation of present or future sales.
5. Unless otherwise provided in this Ordinance, such activity shall not include established businesses for the sale of goods, wares, or merchandise; the rendering or offering to render services, professional or otherwise, to the public generally; the engaging in the manufacturing, distribution, or leasing of goods, wares, or merchandise; the renting of apartments, hotel rooms, motor courts, trailer camps or cabins; or the engaging in the mercantile, commercial contracting, industrial, manufacturing, or construction occupation, carried on for profit from a business firm address within the city; selling products of the farm or orchard produced by the seller or family; vendors of newspapers; wholesalers making deliveries to or taking orders from established businesses; and distributors making deliveries of dairy products.

This shall not include ordinary labor for hire.

- D. JUNK: Includes, but is not limited to, used vehicles, vehicle parts, or abandoned vehicles; used machinery, machinery parts, used iron or other metal, glass, waste material, discarded material or abandoned personal property of any nature, except reconditioned or rebuilt vehicle parts, sold by a wholesale distributor having an established place of business to an established business for resale.
- E. JUNK DEALER: A person engaged in the business of junk sales, operating or maintaining a junk yard, or a place or building within the city for the storage or dismantling vehicles, devices, or machines.
- F. PAWNBROKER: Any person engaged in conducting, managing, or carrying on the business of loaning money, for himself or for another, upon personal property, personal security, pawns, or pledges; or engaged in the business of purchasing articles of personal property and reselling or agreeing to resell such articles to the vendors, or their assigns, at a price agreed upon at or before the time of such purchase.
- G. PAWNSHOP: Any room, store, or place in which any pawnbroker business is carried on or conducted.
- H. PLACE OF BUSINESS: A business location inside the City of Lyons which is within an enclosed building which meets the requirements of all city and county building requirements and all other city ordinances.
- I. SECONDHAND DEALER: A person who is engaged in the established or itinerant business of selling secondhand tools, wares, merchandise, or goods for private gain, or conducts auctions (used/new goods), except temporary auctions, garage sales, and sale of books or magazines or collectibles.
- J. TEMPORARY BUSINESS ENTITY: A business entity whose conduct in the city is temporary. This includes, but is not limited to:

1. Peddlers, e.g., business entities who travel within the city and sell and deliver merchandise or services at one and the same time;
2. Solicitors, e.g., business entities traveling within the city, carrying goods, but taking orders for future delivery;
3. Business entities occupying a temporary fixed location, e.g., portable food stands, etc.;
4. Transient merchants selling and delivering from stock on hand; and including any auction, antique, rummage, tailgate, or any other sale of similar nature wherein all or part of the goods consist of used personal property.

Temporary business entity shall not apply to any sale, which is operated by, or the proceeds go to, a recognized charitable (or religious) organization or institution.

SECTION 3 - LICENSE REQUIRED

On or within thirty (30) days from the effective date of the ordinance, the following business entities are required to obtain a business license from the city:

- A. Business entities described under the definition of a business entity found in Section 2 of this Ordinance, which operate from a place of business within the city limits of Lyons;
- B. Temporary business entities defined in Section 2 of this Ordinance.

It shall be a violation of this Ordinance for any business entity to conduct, engage in, carry on, or practice any trade, profession, occupation or pursuit for gain within the City of Lyons without first securing a business license from the City of Lyons and paying the license fee prescribed in this Ordinance.

SECTION 4 - APPLICATION FOR LICENSE

Application for all licenses required by this Ordinance shall be made to the city on forms prescribed by the city. Application for all licenses and permits required by this Ordinance shall provide for information necessary to determine the identity and address of the applicant and of the owner of any enterprise and/or person to contact in case of an emergency, nature of activity, or device to be licensed, and shall provide for such other information required by this Ordinance, or to accomplish an appropriate review. The application shall be signed and sworn to by the applicant. An application fee in an amount set by resolution shall accompany each license application.

SECTION 5 - AUTHORIZATION TO GRANT OR DENY A BUSINESS LICENSE

The city recorder may approve a business license application, where it can be shown that the business conforms to city ordinances and other applicable local, state, and federal laws, including but not limited to: the city's Development Code, the building code, uniform fire code, the city's public works design standards and state licensing requirements. A business license will be denied if the proposed use does not comply with any Development Code regulation, building or fire code requirement, public works design standard or state licensing/certification requirement.

SECTION 6 - APPLICATION REVIEW PROCEDURES

The procedure for taking action on an application for a business license shall be as follows:

- A. A person may initiate a request for a business license by filing an application with the city using forms prescribed by the city and by paying the necessary filing fee.
- B. Before the city recorder may act on a business license application, the application shall be reviewed for compliance with the city Development Code, building code, fire code and public works design standards.
- C. Within fifteen (15) working days after the application is submitted to the city, the city recorder shall either approve or deny the application.
- D. The decision of the city recorder may be appealed to the city council, by filing a written appeal with the city within fifteen (15) days of the city recorder's decision. The city council will consider the appeal at the next regularly scheduled city council meeting. The city council may uphold the decision, modify the decision and any conditions of approval or reverse the decision of the city recorder. The decision of the city council is final.
- E. The mayor shall sign all approved business licenses.

SECTION 7 - CONDITIONS AND TEMPORARY LICENSE

In approving a business license, the city recorder may attach conditions, which he/she finds are necessary to comply with the city's Development Code, building, fire and public works standards. Such conditions shall apply to the applicant for such a business license and to any purchaser, renter, lessee or subsequent owner of the subject business. The city recorder may grant a temporary business license for up to six months to allow the applicant to comply with the conditions of approval.

SECTION 8 - TERMINATION OF A BUSINESS 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.

SECTION 9 - POSTING OF LICENSE

- A. Except as provided in subsection B of this section, the license or permit shall be posted in a conspicuous place upon the business premises, available for inspection by the public, employees and prospective employees of the business.

- B. If the licensee has no office, business premises or other established place of business within the city, the license shall be at all times in the possession of the representative of the business present within the city while business is being transacted by any employee or representative within the city.

SECTION 10 - LICENSE EXPIRATION AND RENEWAL

- A. Business licenses are valid for one (1) year. Licenses issued between January 1st and June 30th shall expire on December 31st. Licenses granted after July 1st of a given year shall expire on December 31st of the following calendar year.
- 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.
- C. Business licenses shall be renewed annually.
- D. Business license fees and renewal fees shall be set by separate resolution.

SECTION 11 - JUNK DEALERS

A. License Required

1. Junk dealers, as defined in this Ordinance, doing business in the city shall have a license unless otherwise exempt.
2. Any bona fide automobile establishment conducted solely and exclusively for the sale of used automobiles is exempt from the licensing requirements of this Section.

B. Bond Required

Every application for a license as a junk dealer shall be accompanied by a bond to the city in the penal sum of Two Thousand Dollars (\$2,000.00), with surety approved by the city recorder. The bond shall be for the term of the license and shall be conditioned upon due observance of the provisions of all city ordinances and all laws applicable to junk dealers.

C. Recordkeeping

A junk dealer conducting an establishment, or an itinerant junk dealer, shall keep a daily ledger, written in indelible form, of all junk or articles purchased, including a description thereof, name, and address of the person from whom purchased or acquired, day and hour of purchase, and price paid. Such record shall be open for inspection by any police officer at all reasonable times. No entry in such records may be changed, erased, obliterated, or defaced.

D. Premises

1. The premises and structures of a junk dealer shall be kept in a sanitary manner.
2. Representatives of the police department may go upon and inspect such premises at all reasonable times.

3. The premises upon which the business of a junk dealer is carried on shall be enclosed by a proper fence or other structure not less than six (6) feet high above the street level, constructed so that no dust or other material may pass through, and kept properly painted and in good repair.

4. No material or article shall be piled so as to protrude above the fence.

5. No street, sidewalk, or portion thereof may be used at any time to store, pile, or maintain any junk, except as necessary in the actual moving of such material.

E. Purchases From Minors Restricted

A junk dealer shall not purchase or acquire from any person less than eighteen years of age any junk, except old rags or paper, without the written consent of the parents or the guardian of such person.

F. Retention of Articles

1. All junk purchased or received shall be retained for five (5) days before disposal, except old rags and paper.

2. Whenever any junk dealer is notified by a police officer to retain any article purchased by such dealer so that the police can ascertain whether the article is stolen, the dealer, upon receipt of the notice, shall retain at the place of business such articles for fifteen (15) days after receipt of the notice. Any junk purchased by the dealer, which is determined to be stolen property, may be seized by the police department and may be returned to the rightful owner without any recovery of purchase price to the dealer from the owner or the city.

SECTION 12 – SECONDHAND DEALERS AND PAWN BROKERS

A. License Required

Secondhand dealers and pawnbrokers as defined in this Ordinance, doing business in the city shall have a license unless otherwise exempted herein.

B. Recordkeeping

1. Any secondhand dealer or pawnbroker, or an itinerant secondhand dealer or itinerant pawnbroker conducting a business in the city, shall keep a daily ledger written in the English language, in indelible form, of any articles received on deposit, pledged, or purchased, including a description thereof; day and hour of purchase; name and address of person from whom received on deposit, pledged, or purchased; the amount loaned or price paid; and, if applicable, the number of the pawn ticket. Such record shall be open for inspection by any police officer at all reasonable times. No entry in such records may be changed, erased, obliterated, or defaced.

2. Pawn tickets issued shall be numbered consecutively, and if stubs are used in connection with such pawn tickets, each stub shall be numbered consecutively to conform to the ticket.

3. If any article so on deposit, pledge, or purchase has engraved thereon any number, word, or initials, or contains any setting of any kind, the description of such records shall contain such number, word, or initial, and shall show the kind of settings and number of each kind.

4. No secondhand dealer shall be required to record such description of any property purchased from manufacturers or wholesale dealers having an established place of business, or secured from any person doing business and having an established place of business in the city, but such goods shall be accompanied by a bill of sale or other evidence of legitimate purchase and must be shown to any police officer upon request.

5. The record concerning articles or material shall be kept for at least one (1) year after the date of receipt of such articles or materials.

6. When any licensee discontinues business, such records or duly authenticated copies thereof shall be delivered to the police department or shall be disposed of as it directs.

C. Record Forms

1. In addition to any other records required to be kept by this Ordinance, all secondhand dealers and pawnbrokers shall, at the time of taking, receiving, or purchasing any article for the licensed business, place the description of the following articles or things pledged, pawned, received, or purchased, upon a pawn ticket:

- a. Jewelry, gems, or precious metals with a retail market value of over thirty dollars (\$30.00).
- b. Television, video and stereo equipment
- c. Cameras and camera equipment
- d. Firearms, operable or not operable
- e. Furniture with a retail market value of over two hundred dollars (\$200.00).
- f. Power tools

2. The pawn ticket form shall be approved by and shall include such information as the chief of police may direct. Every person regulated by the provisions of this Ordinance shall deliver to the police department every Monday all such pawn tickets describing articles or things pledged, pawned, bought, taken, or received during the preceding week; such pawn tickets must be fully completed.

D. Property Sales

1. No property listed above shall be sold from secondhand dealer or pawnbroker's place of business for seven (7) days after purchase.

2. Whenever any police officer serves notice in writing to any secondhand dealer or pawnbroker not to sell any property received on deposit, or purchased, or permit same to be redeemed, the property shall not be sold, redeemed, or otherwise disposed of until such time as may be determined by the police department, not exceeding fifteen (15) days from the day of notice aforesaid. Any property purchased by the dealer which is determined to be stolen property, may be seized by the police department and may be

returned to the rightful owner without any recovery of purchase price to the dealer from the owner or the city.

E. Articles to Be Tagged

Any secondhand dealer or pawnbroker receiving in pledge, by purchase or otherwise, any article or goods shall affix to the article or goods a tag upon which shall be written a number, in legible characters, which number shall correspond to the number in the book required to be kept as heretofore provided or provide an alternative form of identifying articles to correspond to the book record approved by the police department.

F. Dealings with Minors and Persons Under the Influence of Intoxicants Prohibited

No secondhand dealer or pawnbroker shall buy or receive on deposit or for pledge any article or thing whatsoever from or sell any article or thing to any person under the influence of intoxicants or to any person under the age of eighteen (18) years.

G. Inspection of Articles and Records

Any person licensed to do business as a secondhand dealer or pawnbroker, and any person employed by such dealer, shall permit a representative of the police department entry to his business premises for the limited purpose of inspecting any articles received on deposit, pledged, or purchased in the business as regulated by this chapter and/or the records incident thereto, to ensure compliance with the provisions of this Ordinance. Such inspections may be made at any reasonable time.

SECTION 13 - VIOLATIONS AND PENALTIES.

A. Violations.

1. Each day that any person conducts any business in violation of the provisions of this Ordinance shall be deemed a separate offense.
2. Any violation of this Ordinance is the responsibility of not only the business entity, but also the partners, executive director, officers, and manager.

B. Penalties. Any person or business entity that violates any provision of this Ordinance shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each offense.

SECTION 14 - ENFORCEMENT

The City may institute appropriate suit or legal action in a Court of competent jurisdiction to enforce the provisions of any decision or order issued pursuant to the Ordinance.

SECTION 15 – PUBLIC NUISANCE

Any premise, house, building, structure, or place of any kind which is used in violation of this Ordinance is a public nuisance. The City may institute appropriate suit or legal action in a Court of competent jurisdiction to abate, and temporarily and permanently enjoin, such

nuisance. The Court has the right to make temporary and final orders as is in any other injunction proceedings. The City shall not be required to give bond in any such proceeding.

SECTION 16 – REMEDIES NOT EXCLUSIVE

The remedies available for a violation of this Ordinance are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the City to seek cumulative remedies for a violation of this ordinance.

SECTION 17 - SEVERABILITY

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 18 - EMERGENCY CLAUSE

This Ordinance being necessary for the immediate preservation of the public health, safety and welfare of the community, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

APPROVED this ____ day of _____, 2015, by the City Council of the City of Lyons, Linn County, Oregon.

MAYOR
COPY

ATTEST:

CITY RECORDER
COPY