

**CITY OF DUNES CITY
LANE COUNTY, OREGON
ORDINANCE NO. 206**

AN ORDINANCE TO ESTABLISH CHAPTER 120 WITHIN THE DUNES CITY CODE OF ORDINANCES ENTITLED “BUSINESS LICENSES” AND ALL MATTERS PROPERLY RELATING THERETO.

WHEREAS, the Dunes City Council finds it to be in the best interests of the residents and citizens of the City to establish a clearly defined and regulated business licensing process and guidelines; and

WHEREAS, the Dunes City Council desires to provide for the health, safety and welfare of the citizens of Dunes City through regulation of businesses, occupations and trade; and

WHEREAS, the Dunes City Council desires to provide revenue for municipal purposes;

NOW, THEREFORE, THE CITY OF DUNES CITY ORDAINS AS FOLLOWS:

Section 1. Establishment of Chapter 120 within the Dunes City Code of Ordinances, entitled “Business Licenses”

Title 11, Business Regulations, Chapter 120, entitled “Business Licenses” of the Dunes City Code of Ordinances is hereby established and is attached hereto as Exhibit A to this Ordinance and included by reference herein.

Section 2. Administrative Fees

The City Council shall, by resolution, impose fees to cover the expense of implementing and administering this Ordinance.

Section 3. Severability Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and that holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date

This Ordinance shall take effect 30 calendar days after adoption in accordance with the Dunes City Charter.

Passed at the first reading in a regular meeting of the City Council of Dunes City, Oregon, on this 10th day of June, 2010.

Ayes: 4 Nays: 2 Abstain: 0 Absent: 0

Passed at the second reading and placed on final passage, and adopted by the City Council of Dunes City, Oregon, on this 8th day of July, 2010.

Ayes: 4 Nays: 2 Abstain: 0 Absent: 0

DATED THIS 8th DAY OF July, 2010.

[Signed copy available at City Hall]

Eric Hauptman, Mayor

ATTEST:

[Signed copy available at City Hall]

Fred Hilden, City Recorder

EXHIBIT A

TITLE 11: BUSINESS REGULATIONS

Chapter 120

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BUSINESS LICENSES

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§120.05 PURPOSE AND SCOPE

(A) *Revenue.* This Chapter is enacted, except as hereinafter otherwise specified, to provide revenue for municipal purposes and to provide revenue to pay for the expenses required to administer the City business license program.

(B) *Health, safety and welfare of Dunes City citizens.* This Chapter is further enacted to provide for the health, safety and welfare of the citizens of Dunes City through regulation of businesses, occupations and trade.

(C) *Separation.* The license fees levied by this chapter shall be independent and separate from any license or permit fees now or hereafter acquired of any person to engage in any business by any ordinance of the City regulating any business herein required to be licensed. All such businesses shall remain subject to the regulatory provisions of any such ordinances or ordinance now or hereafter in effect, and the persons engaged therein liable for the payment of any license fees therein provided.

(D) *Unlawful Business.* The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the City to the person

engaged therein in the event such business shall be unlawful, illegal or prohibited by the laws of the State of Oregon or the United States, or ordinances of the City.

(E) *Contractual Obligation.* 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.

(F) *Application.* Nothing in this chapter shall be construed to apply to any person while transacting and carrying on any business within the City which is exempt from taxation or regulation by the City by virtue of the Constitutions or Statutes of the United States or the State of Oregon.

§120.10 DEFINITIONS

The following terms as used in this Chapter shall have the meanings assigned to them, unless the context clearly indicates or requires a different meaning:

(A) “Business” means any activity carried on with the intent:

- (1) That a profit be realized therefrom; and
- (2) That the profit, if any, inures to the benefit of the owner or owners of the activity.

(B) “City designee” means a person duly authorized by the City Recorder to conduct the processing of business license applications.

(C) “Doing or transacting business” means any act or series of acts performed in the course or pursuit of a business activity.

(D) “Employee” means a person having no ownership interest in the business other than the ownership of shares in a corporate owner of the business and who is regularly employed by, and under the supervision and control of, the owner or owners of the business or their representative in the course of the business activities; any person who is not subject to state and federal employment and withholding taxes by the business shall not be deemed an employee under this Chapter.

(E) “Home Occupation” means any business carried out for gain by a resident and conducted as an incidental and accessory use of the residential parcel.

(F) “Contractor” means any person who purchases or owns property and constructs or for compensation arranges for the construction of one or more residential structures or commercial structures with the intent of selling the structures, obtaining City permits for citizens, or any person, for compensation or with the intent to sell, arranges or undertakes, or offers to undertake or submits a bid for work under a Construction Contractors Board (CCB) License, an Oregon Trade License from the

Building Codes Division (BCD), or a Landscape Construction License from the Oregon Landscape Contractors Board.

§120.15 BUSINESS LICENSE REQUIRED

No person, for themselves or as agent or employee of another, shall do business within the City unless such business has been duly licensed within this Chapter and the license is valid at the time of the transaction of business, unless jurisdiction of said licensing is specifically reserved by Federal or State government.

§120.20 APPLICATION

(A) Application for a business license shall be submitted on forms to be provided by the City designee. Every application shall be signed by the owner or their duly authorized agent and shall contain the following information:

- (1) Name of person or persons owning the business;
- (2) Assumed business name, if any;
- (3) Address of business premises and business mailing address, contact name, telephone and fax numbers, and email if available;
- (4) Nature of the business;
- (5) Where the business includes activities classifiable in two or more categories, the primary or predominate activity; and
- (6) Evidence of satisfaction of State registration, bonding or insurance if required, including registration number and expiration date.
- (7) The date of the application.
- (8) Signature of Applicant.

(B) No person shall knowingly sign or submit a business license application containing false information.

§120.25 ISSUANCE

(A) Upon receipt of a business license application, receipt of the required fee, and approval, a business license will be issued to the applicant. License applications will either be approved or denied within 15 business days of receipt. Licenses so issued shall be valid until the last day of the prior month in the next year. There shall be no proration of license fees.

(B) In the event an application is denied, the applicant shall have the right to appeal said denial to the City Council in accordance with the appeal provisions under Section 120.70 of this Chapter.

§120.30 GENERAL REQUIREMENTS

In addition to any other requirements of this Chapter, each licensee shall:

(A) Conform to all Federal, State and County Laws and the requirements of the Dunes City Code, regulations and ordinances, the provisions of this Chapter, and any rules adopted thereunder.

(B) Notify the City within 10 days of any change in the information contained in the application, related materials, or license, including the cessation of business activities.

(C) If a business ownership or location is transferred, the requirements of this section shall prevail. A fee of \$25.00 shall be charged for a transfer.

§120.35 LICENSE RENEWALS

The City designee shall annually send a license renewal notice to each business for which a license has been issued informing said business of the expiration date of its current license and requiring that business to renew its license on or before the last day of the month prior to initial issuance in order to continue operations in the City.

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Licenses shall be issued to the applicant in the name of the business to be licensed and shall designate the nature of the business, the address of the business premises, the date of issuance and the date of expiration.

§120.45 POSTING

(A) Except as provided in Subsection B of this section, at all times after the issuance of the license, the licensee shall cause it to be posted in a conspicuous place upon the business premises, available for inspection by the public and by employees and prospective employees of the business.

(B) Where the licensee has no office, business premises or other established place of business within the City, a copy of the license shall be in the possession of the representative of the business while doing business within the City.

§120.55 FEE - TERM

(A) An initial application for a license and an application for a renewal of a license shall be accompanied by a nonrefundable fee of \$85.00 per business. No license will be issued or renewed until all fees are fully paid.

(B) No person having paid the required fee, and having made application for a business license, shall be entitled to any refund.

(C) The City Recorder shall assess a late fee of \$25 on any business license renewal that is not paid within 15 days of the due date of the renewal notice, unless the City is notified in writing that the business has ceased to conduct business in the City as provided in Section 120.30 of this chapter. If after 30 days such notice has not been received and the license is not renewed, it is subject to §120.60.

§120.60 DENIAL, REVOCATION, OR SUSPENSION OF LICENSE

(A) The City Recorder shall deny, suspend or revoke a business license upon finding that:

- (1) The licensee fails to pay the required license issuance or renewal fee.
- (2) The licensee fails to meet the requirements of, or is doing business in violation of Federal, State and County Laws and the requirements of the Dunes City Code, regulations and ordinances, the provisions of this Chapter, and any rules adopted thereunder.
- (3) The licensed activity would endanger property or the public health and safety.

(B) The City Recorder shall provide written notice to the applicant or licensee of a denial, suspension, or revocation, the notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 120.70 of this Chapter.

(C) A person whose application for a business license has been denied or whose license has been revoked may reapply for a license after 90 days from the date of denial or revocation but the application fee will be double the usual fee.

§120.65 LICENSE SUSPENSION

(A) Upon determining that a licensed activity by a licensed business presents an immediate danger to person(s) or property, the City shall suspend the license for the activity.

(B) The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such notice shall state the reason for the suspension and inform the licensee of the provisions of appeal under Section 120.70 of this Chapter.

(C) The City shall continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 120.70 of this Chapter.

§120.70 APPEAL

In the event that an applicant, owner or other responsible party for a license under this Chapter is denied such license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Recorder within 15 days after the denial of license or license suspension or revocation. The written appeal shall be referred to the City Council as part of its agenda at the next regular meeting. The decision of the Council on such appeal shall be final and conclusive.

§120.75 BUSINESSES AFFECTED

(A) Contractors, those performing septic inspections and pumping, those involved in landscaping and lawn care, and those involved in pruning and removing trees. Rules and ordinances regarding operations in the City that might be impacted by such businesses will be provided by the City staff to these businesses at the time of applying for a business license in Dunes City.

(B) Other businesses may be added at a later date by resolution.

§120.80 EXEMPTIONS

The terms and provisions of this Chapter shall not apply to the following businesses or activities:

- (A) Any person transacting and carrying on business within the City which is exempt from taxation or regulation by virtue of the Constitutions and laws of the United States or the State of Oregon.
- (B) Any business paying a Dunes City franchise fee.
- (C) Any business or individual making deliveries for resale.
- (D) Activities conducted by, or for the exclusive benefit of, organizations that are certified as tax exempt entities pursuant to Chapter 26, Section 501(c), of the United States Tax Code.
- (E) The providing of childcare in private homes for fewer than five children not related by blood, legal adoption or marriage.
- (F) The conduct of a temporary and occasional garage or yard sale as defined in this Chapter.
- (G) The rental for a period of one month or more of two or fewer units of residential real estate within the City.
- (H) The conduct of a home occupation as defined in this Chapter, at the owner's residential parcel and not involved in providing services other than at the residence where the applicant is a sole proprietor or a family group consisting of no more than two family members, has no employees or contract employees or subcontractors, has no customer traffic to their home, and has no signs.

(I) No business license shall be required for the operation of a “residential home” or a “residential facility,” as those terms are defined in Oregon Revised Statutes 197.660.

(J) Special events such as fishing tournaments, trade shows, sidewalk sales, fairs, parades, art shows, hobby shows and educational or cultural events at which several businesses shall sell goods from temporary booths or stalls. The purpose of this section is to facilitate such events which are cultural or educational or which help to promote business or tourism in the community.

(K) Homeowners who obtain permits for work they are doing themselves on their own property.

§120.90 VIOLATIONS AND PENALTIES

The City Recorder, upon notification that a person is conducting business within the City without being duly licensed as provided in this Chapter, shall notify such person, in writing, sent via certified mail, return receipt requested, that a business license is required and shall provide said person with a copy of this Chapter. If said person shall not apply for a business license within 15 days of receipt of said notification, or shall continue to conduct business within the City, that person shall be deemed in violation of this Chapter and shall be fined \$500 in addition to an amount not to exceed \$100 per day and a total not to exceed \$ 10,000. Every day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. If the person applies for a business license after the 15 day grace period, the fee is double the current fee.