

Ordinance No. 883

**AN ORDINANCE REPEALING ORDINANCE NO. 867 OF THE VERNONIA
ORDINANCE PERTAINING TO LICENSING OF BUSINESSES.**

WHEREAS, the City is updating its code to provide consistency and continuity with State and Federal Law; and

WHEREAS, it is necessary to provide revenue to pay for municipal services to businesses, to provide revenue to pay for expenses required to issue licenses, and to regulate business.

THE CITY OF VERNONIA ORDAINS AS FOLLOWS:

Section 1. Definitions. As used in this chapter, the following words and phrases have the following meanings:

“Business” means any occupation, profession or commercial activity engaged in for profit or livelihood in the city. Business includes, but is not limited to, peddler and home occupation activity.

“Conducting business” means the act of selling or providing any goods or services, or soliciting business or offering goods or services for sale or hire.

“Garage sale” means a commercial activity open to the public, conducted at a private residence where personal property is sold to others provided that the sale is not conducted over a period in excess of 4 consecutive days or more often than 3 times per calendar year.

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

“Peddler” or “solicitor” means and includes any person whether a resident of the city or not, who goes from house to house or from place to place within the city, taking orders for goods, wares or merchandise or any article or thing of value for present or future delivery or for services to then be performed or to be performed in the future or for the making, manufacture or repair of any article or thing whatsoever for present or future delivery; provided, however, that this shall not be deemed to include regular commercial travelers employed by wholesale houses and selling goods, wares, merchandise and services to merchants of this city, nor to newspaper vendors.

Section 2. Application.

- A. It is unlawful for any person to conduct any business within the City without a valid business license, unless exempt under Section 3.
- B. Peddlers and Solicitors operating within the City must have a current City of Vernonia business license. Peddlers and Solicitors must adhere to the following rules:
 - 1. Limit hours of operation to only those hours between 9am and 9pm.
 - 2. Not enter uninvited into a private building, structure or room.
 - 3. Not enter uninvited upon private property that is posted "no soliciting" or with a similar sign.
 - 4. Within 30 seconds after beginning the conversation with a potential customer:
 - a. Provide identification of both the person and whom the person represents;
 - b. Explain the purpose of the person's call;
 - c. Provide a description in commonly understood terms of the goods or services offered for sale; and
 - d. Inquire whether the person being solicited is interested in listening to a sales presentation and immediately discontinue the solicitation if the person being solicited gives a negative response.
 - 5. During the course of the solicitation, state the total cost of the goods or services offered for sale and the number, timing, and amount of installment payments if payment on an installment basis is available to the person being solicited.

Section 3. Exemptions. This chapter does not apply to:

- A. Garage sales.
- B. An individual performing babysitting, nursery or child-care activities 20 hours or less per week and who is not otherwise required to be licensed under local, state or federal law.
- C. An individual who is employed by or under contract with a business holding a valid business license.
- D. An individual hired or employed in an intermittent or casual basis by a household, business or other employer to supply only services, not otherwise required to be licensed

under local, state, or federal law.

E. A person whose primary activity consists of delivering goods inside the City for a business located outside the City.

F. Any conduct exempt from licensing under the constitution or laws of the United States or State of Oregon.

G. A person who leases two (2) or fewer units of residential real estate within the City.

H. Federally tax-exempt organizations.

I. City sponsored activities and businesses operating under a City franchise.

J. Transient merchants and special events at which business 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 promote business or tourism in the community.

Section 4. Application; expiration; renewal.

A. Application for a license must be made to the City Recorder on or before July 1st of each year for which a business license is required. For a business going into operation after July 1st, the application must be made at least thirty (30) days prior to conducting business in the City.

B. The application shall be on a form provided by the City Recorder and signed by the applicant. At a minimum, the application may request:

1. The name and address of the applicant;
2. The name and address of the business;
3. A description of the type of business to be licensed;
4. The number of persons regularly employed by the business;
5. Proof of compliance with state and federal licensing requirements, if any;
6. Emergency contact information. The license holder is responsible for ensuring that the City have current emergency contact information at all times.

C. A license expires on the last day of the fiscal year for which the license was issued.

D. A license issued under this ordinance does not imply approval by the City of any other conditions under which the business operates (liquor license, health regulations, sign,

etc.) Separate applications are required to satisfy any of those requirements. The City Recorder will inform the applicant at the time of application of any other City licensing requirements.

E. An application for renewal of a business license will be made and processed in the same manner as an initial application, except that applications for renewal must be submitted no later than the last day in the calendar year for which the license was issued.

F. Application and appeal fees will be set by resolution of the City Council.

Section 5. Separate business.

A. If a person conducts more than one business in the city, a license is required for each business.

B. If a business is conducted at two or more locations, each location is considered a separate business for which a separate license is required; however, a separate license is not required for a warehouse used in connection with a licensed business but at a separate location.

C. If two or more business activities are carried on in the same premises, any separate ownership is considered a separate business for which a separate license is required.

Section 6. Application review and issuance of license.

A. Upon receipt of a complete application and the required fee, the City Recorder will submit the application to appropriate City department heads for evaluation and comment.

B. The City Recorder shall approve, approve with conditions or deny an application for a business license. An application may be denied on any of the following grounds:

1. Failure to provide requested information or any false, misleading or incomplete material statement made on the application form.

2. The applicant, a person directly involved in the management or operation of the business ("principal"), or the business activity fails to meet the requirements of this code, or is doing business in violation of this code or applicable state or federal law, including the building, health, mechanical, electrical, plumbing, development and fire codes of the City.

3. The business activity would endanger, or has endangered, persons or property, such that the business activity is a menace to the health, safety and general welfare of the City.

C. The City Recorder shall notify the applicant in writing of the decision made under subsection B of this section. The written notice shall state the reason for the decision and explain that the decision is final unless the applicant files a notice of appeal pursuant to Section 10.

Section 7. License non-transferable. A business license is a personal privilege and not transferable.

Section 8. Display of license. Business licenses need not be displayed, but shall be available for review by any interested person. If the holder of the license does not maintain a place of business within the City, the license or a copy of the license shall be available for review within a reasonable time.

Section 9. Revocation and suspension of license.

A. If the City Recorder determines that grounds for denial (Section 6) of the license exist at any time after the license has been approved, the City Recorder may revoke the license upon 30 days prior written notice of the grounds for revocation. The notice explaining the grounds for revocation and appeal procedure shall be sent via certified mail to the licensee's business or residential address shown on the application. The license will not be revoked if the licensee cures the grounds for revocation within the 30 day period.

B. If the City Recorder determines that a licensee or any activity of the licensed business presents an immediate danger to persons or property, the City Recorder may suspend the license upon written notice to the licensee. The notice shall explain the grounds for suspension and appeal procedure, and be sent to the licensee's business or residential address shown on the application. The suspension is effective on the third day after the date the suspension notice is mailed or on the date the notice is personally delivered to the licensee's business or residential address.

C. A revocation or suspension of a license may be appealed to the City Council pursuant to Section 10. Filing of a notice of appeal under Section 10 stays the effective date of revocation until the Council issues its final determination. Filing a notice of appeal under Section 10 does not stay the effective date of suspension.

Section 10. Appeal.

A. A notice of approval with conditions, denial, revocation, or suspension may be appealed to the City Council by the applicant or licensee, as the case may be, by filing a written notice of appeal with the City Recorder within ten (10) days after the date of the notice of approval with conditions, denial, revocation or suspension. Failure of the applicant or licensee to file a notice of appeal within the time required by this subsection constitutes a waiver of objections.

B. The notice of appeal must include a copy of the notice being appealed, the grounds

for appeal, and the appeal fee.

C. The City Council shall designate a time to hear the appeal at which time the applicant or licensee, City staff, and other interested parties will have the opportunity to give oral and written testimony to the Council. The Council may affirm, modify, remand or reverse the City Recorder's decision. The City Council's decision shall be provided in writing.

Section 11. Violation – penalty.

- A. Violation of this chapter shall be punishable by a fine set by City Council Resolution.
- B. Every full business day during which any business activity continues to be conducted in violation of this chapter shall be deemed a separate offense.
- C. No license shall be issued to any person who has, prior to making application for a license under this chapter, conducted a business within the City while this chapter was in effect without a current valid license unless the person pays an additional amount equal to the license fee for the period during which business was conducted without a license.
- D. The City may, at its option, pursue civil or criminal remedies to correct any violation of this chapter.

Section 12. Repeal of Ordinance 867. Ordinance 867 is hereby repealed.

Read for the first time: July 16, 2012.

Read for the second time and passed by the following vote: July 16, 2012, to become effective thirty (30) days hence.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 0

Signed July 16, 2012.

Josette M. Mitchell
Josette Mitchell, Mayor

ATTEST:

Joann Glass
Joann Glass, City Recorder