

ORDINANCE NO. 984

AN ORDINANCE OF THE CITY OF PAYETTE REQUIRING BUSINESSES TO OBTAIN AND MAINTAIN BUSINESS LICENSES; PROVIDING EXCEPTIONS THEREFROM; CITING THE STATUTORY AUTHORITY AND PURPOSE; DEFINING CERTAIN TERMS; SETTING RATES; SETTING RATES FOR EXEMPT BUSINESSES; DEFINING BUSINESSES WHICH ARE EXEMPT; PROHIBITING ENGAGING IN BUSINESS WITHOUT OBTAINING A LICENSE; SETTING FORTH EXPIRATION TIME OF LICENSES; SETTING FORTH THE APPLICATION REQUIREMENT; CONTENTS OF THE REQUIREMENT; REQUIRING A LICENSE FEE; REQUIRING INVESTIGATION OF APPLICATIONS AND RECOMMENDATIONS OF THE CITY COUNCIL; SETTING FORTH AN APPEAL PROCEDURE; PROVIDING FEES AND PENALTIES; PROVIDING FOR USE OF FUNDS; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR LICENSE REVOCATION; PROVIDING FOR LICENSE REVOCATION; PROVIDING AND OPERATING WITHOUT A LICENSE IS A NUISANCE; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING AN EFFECTIVE DATE.

GENERAL BUSINESS LICENSES

BE IT ORDAINED by the Mayor and City Council of the City of Payette:

Section 1. That Title 5 of the Payette Municipal Code is hereby amended with the addition of the following chapter, which shall be designated as Chapter 5.29.

WHOLESALE AND RETAIL OCCUPATIONS AND BUSINESSES

Section 5.29.010. Statutory authority; purpose.

The licensing of all wholesale and retail occupations and businesses within the city and the levying of a license fee, uniform to all classes imposed, pursuant to the statutory authority vested in the city by Idaho Code, Section 50-307, is hereby declared to be justified and necessary for the purpose of protecting and providing services to the citizens of the city and the businesses and occupations doing business therein.

Section 5.29.020. Definitions.

For the purposes of this article, the following words shall have the meanings indicated unless the context clearly requires otherwise:

Business or occupation means all activities, occupations, callings,

trades, pursuits, or professions located or engaged in, within the city with the object of gain, profit, benefit, or advantage. Each business location shall be deemed a separate business unless it is a specific annex to the main location of the business.

Employee means any person employed at any business location within the city, and any person furnishing or performing services within the city. It shall include all persons who are self-employed, and shall include part-time employees; however, for the purpose of determining the license fee, two (2) part-time employees shall count as one employee.

Engaging in business means commencing, conducting, or continuing in any business or occupation, the exercise of corporate and franchise powers, and the liquidating of a business, where the liquidators hold themselves out to the public as conducting such business when he does one act of:

- (1) Selling any goods or performing any services;
- (2) Soliciting business or offering or holding out goods or services for sale or hire;
- (3) Acquiring or using any vehicle or any premises in the city for business purposes;
- (4) Delivery of any goods, either at wholesale or retail, unless licensed under another section of this Code.

Person means any person doing business in the city.

Premises means all lands, structures, places, and equipment, and appurtenances connected or used therewith in any business, and also any personal property, including any vehicle, which is either affixed to or is otherwise used in connection with any such business conducted on said premises.

Year means the calendar year.

Section 5.29.030. Fee levied; amount; effect upon other license fee provisions.

- (a) There is hereby levied upon and shall be collected from every person engaged in any business or occupation within the city a license fee for the privilege of engaging in business in an amount to be determined by the application of the rates hereinafter set forth. Such license fee shall be set at \$10.00 for the application and \$10.00 per year thereafter.

(1) The license fee levied hereunder is not intended to repeal any other license fee or license requirements provision of this Code or any ordinance of the city.

(b) A business exempt from licensing under section 5.29.050 shall pay a five dollar (\$5.00) licensing exemption processing fee.

Section 5.29.040. Reserved

Section 5.29.050. Exemptions.

The provisions of this article shall not apply to:

- (a) Persons qualifying as nonprofit businesses or occupations, including charitable activities, within the meaning of Section 503 of the United States Internal Revenue Code. Possession of a certificate of tax exempt status from the Internal Revenue Service shall be required to qualify for this exemption, except that the mayor and council may waive the license fee for bona fide charitable or civic groups within the city, including, but not necessarily limited to, private schools, churches, fraternal organizations and lodges, with respect to their educational, religious, or fraternal activities, but this exemption shall not apply to any business activity for profit engaged in by such organization.
- (b) Any agency of the United States government, any state of the United States, any political subdivision of the State of Idaho, including, but not necessarily limited to, counties, school districts, irrigation or sewer districts, or fire districts.
- (c) Any business which is regulated by the State of Idaho, any of its administrative agencies, or any agency created by or recognized by the State.
- (d) Domestic servants, newsboys, blind persons, or casual labor not included as temporary employees of a regularly conducted business.

Section 5.29.060. Engaging in business without obtaining license prohibited; expiration of license.

No person shall engage in any business or activity in the city for which a license fee is imposed by this article, without first having obtained and being a holder of a valid and subsisting license to do so, to be known as a business and occupation license, issued under the provisions of this article, and without paying the license fee imposed by this article, which license fee shall accompany the application for the license. Such license shall expire at the end of the calendar year in which it is issued.

Section 5.29.070. Application for license; contents; license fee to accompany application.

The application for a license shall be made to the city clerk on a form provided by the city clerk. The application shall set forth the name of the applicant, his residence, place of business, the nature of the business, and the amount of the license fee prescribed by this article, and shall be accompanied by a deposit of the license fee by the applicant. Every application shall be personally signed by the applicant or his agent.

Section 5.29.080. Investigation of applications; recommendations.

The city clerk shall cause any applicant for a new business license or the transfer of an existing business license to a new business premise to be investigated for compliance with the laws of the state and of the city.

The aforesaid investigation shall be conducted as it is appropriate or required by the fire marshal, the building official, the zoning officer and the city sanitarian or their designee. If the inspectors and the city clerk are satisfied that all conditions requisite to the issuance of a license have been met, the city clerk shall issue such license. If the inspectors and the city clerk determine that the applicant is not in compliance with applicable laws, the city clerk shall not issue such license, and shall notify the applicant of such decision and cause the license fee to be refunded. All required inspections shall be conducted within ten (10) working days of the receipt of the license application.

Section 5.29.090. Appeal procedure.

Any applicant aggrieved by any decision of the city clerk may appeal such decision to the city council by filing a written notice of appeal with the city clerk within ten (10) days of such decision by the city clerk. However, any applicant, if denied a license by reason of the fire marshal, the building official, the zoning officer or the city sanitarian shall first exhaust all rights of appeal of such decisions as otherwise provided by the City Code. The city clerk shall transmit said notice of appeal to the council, which shall schedule a public hearing on said appeal, to be held at any regular meeting or special meeting of the council, not later than fifteen (15) days after the filing of such notice of appeal with the city clerk. At such hearing, the applicant may appear and speak on his own behalf, be represented by counsel, call witnesses, and cross-examine any witnesses of the city. The council shall proceed to determine said appeal, and, if it decides in favor of the applicant, it shall pass a motion to that effect, and the city clerk shall, on the next business day thereafter, and upon receipt of the proper fee, issue such license. The council may defer action upon said appeal for not longer than three (3) weeks from the date of the public hearing.

Section 5.30.010. Contents of license.

Each license issued hereunder shall state upon its face the following:

- (a) The name of the licensee and any other name under which business is to be conducted;
- (b) The name and address of each business so licensed;
- (c) The amount of license fee therefor;
- (d) The dates of issuance and expiration thereof;
- (e) Such other information as the city clerk shall determine to be necessary.

Section 5.30.020. Display of license; operation of business after expiration of license prohibited; transfer of licenses.

Every licensee, under this article, shall display such license

in a prominent location upon the licensed premises, and shall refrain from operating the licensed business on such premises after expiration of his license. No licensee shall allow any license to remain posted, displayed, or used after the period for which it was issued has expired, or when it has been suspended or revoked or for any other reason become ineffective. No licensee shall loan, sell, give, or assign to any other person or allow any other person to use or display, or to destroy, damage, or remove, or to have in his possession any license which has been issued to said licensee.

Section 5.30.030. Change in location or owner of licensed business.

Any change of owner or owners or location shall automatically void an existing license granted under this chapter and shall necessitate application and issuance of a new license.

Section 5.30.040. Mailing of application forms; effect of failure to file license application.

The city clerk is authorized, but not required, to mail to persons forms for applications for licenses, but failure of any person to receive any such forms shall not excuse the person from making application for and securing the license required and payment of the license fee when and as due hereunder. If any person fails, neglects, or refuses to file his application and to pay and fee as and when required herein, the city clerk is authorized to determine the amount fee payable and by mail to notify such person of the amount so determined. The amount so fixed shall thereupon be immediately due and payable subject to the person's right to appear before the council and show cause why his fee should not be altered or reduced.

Section 5.30.50. When fees due and payable; penalty for late payment.

Each annual license fee herein provided shall become due and payable on January 31 of each calendar year as to any business taxable hereunder and in existence on that date. Failure to pay any license fee within forty-five (45) days after the day upon which it is due and payable shall render the person subject to a penalty of \$2.00 per month until the fee is paid.

Section 5.30.060. License fees, penalties thereon to constitute debt to city.

Any license fee, including penalties thereon, shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt in like amount. No civil action or judgment shall bar or prevent a criminal prosecution for each and every violation of this article.

Section 5.30.070. Use of funds.

All funds received by the city under the terms of this article shall be paid into the general fund of the city and budgeted annually for general municipal purposes in the departments of police, fire, building, and health.

Section 5.30.080. Violation; penalty.

A person who violates any provision of this article or operates any business or occupation for which a license is required by this article without having first obtained a license as herein provided shall be guilty of a misdemeanor. Each day that a violation of this article occurs shall be deemed a separate offense.

Section 5.30.090. Revocation.

Any license issued pursuant to this article may be revoked by the city council if the holder or any employee violates any law of the city, of the state, or of the United States, applicable to the business for which the license was issued. Such revocation must be preceded by notice in writing to the licensee from the clerk, informing the licensee that the council has ordered the holding of a public hearing at a date and time certain, not less than ten (10) days from the date of such notice, at which hearing the licensee will be required to appear personally and show cause why the license should not be revoked. At such hearing the licensee may be represented by counsel, may testify personally, may call witnesses, and may cross-examine any witnesses called by the city. Should the council determine that such license should be revoked, it shall pass a motion to that effect, and such license shall thereupon be revoked, provided, however, that no such motion shall be deemed passed without the affirmative vote of one-half (1/2) plus one (1) of the members of the full council.

Section 5.40.010. Operation without license declared a nuisance; injunction.

The operating or conducting of any business or occupation for which a license is required by this article without having a valid license as provided herein is hereby declared to be a public nuisance. In addition to any other remedy provided by this article, the city may bring an action in any court of competent jurisdiction to obtain an order enjoining any person from operating or conducting any business or occupation in violation of this article.

Section 5.40.020. Severability.

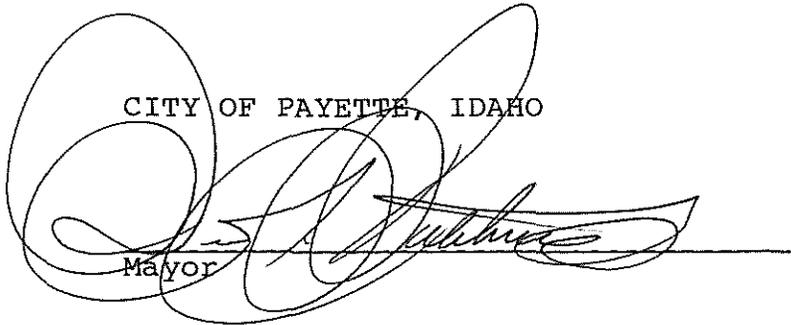
If any portion of this Ordinance is found to be unenforceable or unconstitutional for any reason, the remaining portion of this Ordinance shall remain in full force and effect.

Section 5.40.030. Repealer.

Any portions of any existing Ordinances which are in direct conflict with this Ordinance are hereby repealed insofar as the conflict exists.

Section 5.40.040. Effective Date.

This Ordinance shall be in full force and effect on the 15th day of August, 1988.

CITY OF PAYETTE, IDAHO

Mayor

ATTEST:

John P. Franks
City Clerk

SUMMARY OF
ORDINANCE NO. 984 OF PAYETTE, IDAHO

AN ORDINANCE OF THE CITY OF PAYETTE REQUIRING BUSINESSES TO OBTAIN AND MAINTAIN BUSINESS LICENSES; PROVIDING EXCEPTIONS THEREFROM; CITING THE STATUTORY AUTHORITY AND PURPOSE; DEFINING CERTAIN TERMS; SETTING RATES; SETTING RATES FOR EXEMPT BUSINESSES; DEFINING BUSINESSES WHICH ARE EXEMPT; PROHIBITING ENGAGING IN BUSINESS WITHOUT OBTAINING A LICENSE; SETTING FORTH EXPIRATION TIME OF LICENSES; SETTING FORTH THE APPLICATION REQUIREMENT; CONTENTS OF THE REQUIREMENT; REQUIRING A LICENSE FEE; REQUIRING INVESTIGATION OF APPLICATIONS AND RECOMMENDATIONS OF THE CITY COUNCIL; SETTING FORTH AN APPEAL PROCEDURE; PROVIDING FEES AND PENALTIES; PROVIDING FOR USE OF FUNDS; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR LICENSE REVOCATION; PROVIDING FOR LICENSE REVOCATION; PROVIDING AND OPERATING WITHOUT A LICENSE IS A NUISANCE; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING AN EFFECTIVE DATE.

The full text of this Ordinance is available at the City Clerk's Office, Payette City Hall, Payette, Idaho. I have reviewed the foregoing summary and believe that it provides a true and complete summary of Ordinance No. 984, for Payette, Payette County, Idaho, and that the summary provides adequate notice to the public of the contents of this ordinance. DATED This 1st day of September, 1988.


Bert L. Osborn, City Attorney