

ORDINANCE NO. 734

AN ORDINANCE OF THE CITY OF WILSONVILLE AMENDING WILSONVILLE CODE CHAPTER 7, BUSINESS LICENSES, SECTIONS 7.300, 7.320, 7.330, AND 7.370 AND DECLARING AN EMERGENCY

WHEREAS, Wilsonville Code Sections 7.300 through 7.370 address the requirements, regulations, and penalties associated with obtaining and maintaining a license to do business within the City of Wilsonville; and

WHEREAS, based on citizen input and legal review in light of recent changes to Oregon law, the Council has determined that certain portions of these Sections of the Code are incomplete or need modification;

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

1. Wilsonville Code Chapter 7, Section 7.300, License Required, shall be retitled and amended to read as follows:

“7.300 Business Licensing Requirements.

(1) Unless exempt under the provisions of Subsection (4), it is unlawful for a person to carry on or engage in any business within the City without first having obtained a business license from the City.

(2) A person who carries on or engages in a business that is illegal under applicable City, State, and Federal laws is prohibited from being issued a business license.

(3) As used in Sections 7.300 to 7.370, “person” means domestic or foreign corporations, cooperative corporations, associations, syndicates, partnerships, limited liability companies, professional liability companies, joint ventures, non-profits, individuals, or groups of individuals.

(4) As used in Sections 7.300 to 7.370, “business” means any profession, trade, or occupation carried on for a livelihood or profit, but excluding the following businesses as exempt from the business license requirement:

(a) Suppliers to retailers, and those engaged in wholesale selling, who do not have a place of business in the City;

(b) Municipal, State, or Federal agencies or employees;

(c) Any person employed in the City by one engaged in business in the City, if the employer is licensed pursuant to Sections 7.300 through 7.370 to conduct a business in the City; otherwise such persons shall themselves be deemed to be engaged in business and subject to the requirements of these Sections;

(d) Any person transacting and carrying on any business which is exempt from a license tax by virtue of the Constitution of the United States, the Constitution of the State of Oregon, the laws of the United States, or the laws of the State of Oregon;

(e) Any person engaged as a landlord in leasing property, unless such person leases at any one time more than two (2) separate rental units or parcels (and/or buildings), whether it be residential or commercial, or both, in which event, if the annual gross income from rental exceeds \$500.00, such person shall be deemed to be engaged in business.”

2. Wilsonville Code Chapter 7, Section 7.320(2), shall be modified and replaced as follows:

“(2) The annual license fee for each fiscal year commencing July 1, 1975, and payable on or before July 15th shall be \$100.00 plus \$3.00 per each employee who is actively engaged in the City in his/her employer’s business, except, however, that if a business has an annual net income of \$12,000.00 or less, the annual license fee shall be \$50.00 plus \$3.00 per each employee. The fee for businesses whose total annual gross income is documented to be less than \$500.00 will be waived.”

3. Wilsonville Code Chapter 7, Section 7.330(2)(g), shall be modified and replaced as follows:

“(g) A signed notarized statement by the applicant, affirming that all of information provided is true and correct and that the business for which the application is being made is not illegal under any applicable state, federal, and local laws.” Applications granted under false pretenses where the business being operated is a, in fact, an illegal business will be subject to immediate revocation.

4. Wilsonville Code Chapter 7, Section 7.370, shall be amended to add a new section (3) as follows:

“(3) Any business operating without a business license, will be subject to an action by the City in Circuit Court to immediately seek in junctive relief to enjoin operation of said business This remedy is nonexclusive and is in addition to all other remedies available at law and in equity for such violation.

5. **Emergency Declared.**

The State of Oregon has adopted HB-3460 providing for the registration of businesses dispensing marijuana for medical reasons effective March 3, 2014. However, the Federal Controlled Substances Act (CSA) lists marijuana as a Schedule 1 Drug, in part due to its huge potential for abuse and such classification makes its manufacturer, importation, use and distribution illegal. The City currently has the Home Rule authority to regulate licensing of businesses within the City and to ensure the safety, health and welfare of its citizens by prohibiting the licensing of businesses operating illegally under federal, state, and local laws. Therefore, unless this ordinance is enacted prior to March 3, 2014, the City could well be faced with State preemption and the loss of its local control to determine how best to preserve the safety, health and welfare of the community from businesses who operate illegally, including in violation of the Federal Controlled Substances Act.

Time is of the essence under the circumstances and an emergency is declared to preserve the City’s ability to protect the public’s safety, health and welfare.

SUBMITTED to the Wilsonville City Council and read for the first time at a special meeting thereof on the 23rd day of January, 2014, and scheduled for a second reading at a regular meeting of the City Council on the 3rd day of February, 2014, commencing at the hour of 7 p.m. at the Wilsonville City Hall.

Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 3rd day of February 2014, by the following votes:
Yes:-3- No: -0-

Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this _____ day of February, 2014.

TIM KNAPP, MAYOR

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Starr	Excused
Councilor Goddard	Excused
Councilor Fitzgerald	Yes
Councilor Stevens	Yes