

ORIGINAL

ORDINANCE NO. 1924

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, RELATING TO BUSINESS LICENSE FEES, AMENDING THE PROVISIONS OF CHAPTER 5.04 OF THE REDMOND MUNICIPAL CODE AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, RCW 35A.82.020 authorizes code cities to impose business licensing requirements and excises upon business transacted within such a city to the extent permitted by the general laws; and

WHEREAS, the City has acted upon this authority by enacting business licensing and other requirements which are set forth in Title 5 of the Redmond Municipal Code; and

WHEREAS, the City desires to make the business license tax equitable among large and small businesses; and

WHEREAS, the City has determined that the base portion of the tax will be used for general operations; and

WHEREAS, the Council desires to impose a tax surcharge commencing January 1, 1997 and ending December 31, 2000 for transportation improvements; NOW,

THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Chapter 5.04 of the Redmond Municipal Code is hereby amended to read as follows:

Chapter 5.04

GENERAL BUSINESS REGULATIONS

Sections:

5.04.010	Purpose.
5.04.020	Scope.
5.04.030	Definitions.
5.04.040	Business license required.
5.04.050	Finance Director as license officer.
5.04.060	Qualifications of applicants.
5.04.070	Procedures for issuance of license.
5.04.080	Fees--Payment.
5.04.085	Penalty for late payment--Interest.
5.04.090	Display of license--Renewal--Transfer.
5.04.100	Notification of exemption or termination of business activities.
5.04.110	Operating without a license.
5.04.120	License fee additional to others imposed.
5.04.130	Exemptions.
5.04.140	Criteria for denial, suspension or revocation of license.
5.04.150	Request for hearing.
5.04.160	Penalties.

5.04.010 **Purpose.** The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue and for regulation.

5.04.020 **Scope.** All persons engaging in a business or occupation within the limits of the city as hereinafter defined shall be subject to the provisions of this chapter.

5.04.030 **Definitions.** Where used in this chapter, the following words and terms shall have the meanings as defined in this section, unless, from the context, a more limited or different meaning is clearly defined or apparent:

(1) **"Business"** includes all activities, occupations, pursuits, or professions located and/or engaged within the city, with the object of gain, benefit or advantage to the person engaging in the same, or to any other person or class, directly or indirectly;

(2) **"Business license"** is that document issued by the city licensing the transaction of the indicated business by the person whose name appears thereon for the stated year. For the purpose of this chapter, an original or officially issued duplicate shall constitute a valid "business license" for every purpose;

(3) **"Employee"** means any person who performs work, labor, or services for a business and is under the business' control. For the purpose of this chapter, the term "employee" also includes self-employed persons, sole proprietors, owners, managers, partners, and contract and temporary employees who are under the business' control;

(4) **"Engaging in business"** means commencing, conducting or continuing in any business within the city, whether or not an office or physical location for the business lies within the city. Engaging in business includes the performance of work or services by contractors, consultants, representatives, agents or other persons within the city, even though the office location of the contractor, consultant, representative, agent or other person is not within the city limits. Engaging in business includes the exercise of corporate or franchise powers, as well as the liquidation of a business when the liquidators hold themselves out to the public as conducting such business;

(5) **"Person"** includes the singular and the plural and also means and includes any person, firm, corporation, association, club, partnership, society or any group of individuals acting as a unit;

(6) **"City"** means the City of Redmond, Washington;
and

(7) **"Year"** means a calendar year.

5.04.040 Business license required. No person shall engage in any business within the city without first having obtained and being the holder of a valid and subsisting license to engage in such business or activity, to be known as a "business license," and without paying the license fee imposed by this chapter. Provided, however, that an independent contractor who provides work, labor, or services to business entities licensed hereunder shall not be required to obtain a separate business license when all of the license fees required by this chapter with respect to such a person are included in the license fees paid by the entities which receive the person's work, labor, or services, pursuant to section 5.04.080. Persons or companies doing business in Redmond must comply with this chapter regardless of the physical location of the business (i.e. whether inside or outside Redmond city limits). An original or officially issued duplicate license must be obtained for each location where business is transacted.

5.04.050 Finance Director as license officer. The Finance Director or the Director's designee shall collect all license fees and shall issue licenses in the name of the city to all persons qualified under the provisions of this chapter and shall:

(1) **Adopt Forms.** Adopt all forms and prescribe the information to be provided. Such required information shall include, but not be limited to, the name of the applicant, his or her residence address, date of birth, place of business, the nature of the business, the form of ownership, the names of all officers of the business and the number of employees;

(2) **Obtain Endorsement.** Submit applications, when deemed appropriate, to other city officials for their endorsements thereon as to compliance by the applicant with all city regulations which the officials have the duty of enforcing;

(3) **Investigate.** Investigate and determine the eligibility of any applicant for a license as prescribed herein;

(4) **Examine Records.** Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this chapter;

(5) Give Notice. Notify any applicant of the acceptance or rejection of the application;

(6) Regulate Form of Licenses. Ensure that each license is numbered, and shows the name of the licensee, business address and the character of the business authorized to be transacted.

5.04.060 Qualifications of applicants. Standards to be Applied. The Finance Director shall base the decision to issue or deny the license upon the following criteria:

(1) Applicant History. All violations of city regulations or convictions within the ten years immediately preceding application, which directly relate to the operation of the applicant's current proposed business;

(2) License History. The license history of the applicant; whether such person, is previously operating in this or another jurisdiction under a license has had such license revoked or suspended, the reasons therefor, and the demeanor of the applicant subsequent to such action;

(3) No Obligation to City. Except as otherwise provided in this chapter, applicants shall not be in default under the provisions of this chapter or indebted or obligated in any manner to the city, except for current taxes and other obligations not past due;

(4) Compliance with City Regulations. The proposed use of any premises shall not be in violation of any city building, safety, fire, health or land use regulations as determined by the city department charged with the enforcement of said regulations.

5.04.070 Procedures for issuance of license. (a) Formal Application Required. Every person required to procure a license under the provisions of this chapter shall submit an application for such license to the Finance Director. The application shall be made upon forms provided by the Finance Director.

(b) Commencement of Business Activities. No person shall be entitled or authorized to engage in business within the city until such time as the Finance Director has approved the issuance of

a business license pursuant to the terms of this chapter. The acceptance of a business license application by the city shall not be deemed to grant any right or privilege under this chapter, except as otherwise provided by law.

(c) **Burden on Applicant.** The Finance Director, or other designated officer, is authorized, but not required, to mail to persons engaging in business forms for applications for licenses, but failure of the person to receive any such form shall not excuse the person from making application for and securing the license required by this chapter.

5.04.080 Fees—Payment. (a) Except as otherwise provided by this chapter, every person engaging in business within the city shall pay an annual license fee based upon the number of employees of the business. For an initial license, the number of employees shall be the number employed at the time of application. For all renewals, the number of employees shall be the number employed as of December 31 immediately preceding the licensing year. Provided, however, that any business with gross annual revenues of \$1,500.00 or less derived from business transacted within the city shall pay an annual license fee of \$15.00.

(b) The annual license fee shall be calculated as follows:

- (1) Base fee: \$10.00 per employee.
- (2) Surcharge: \$55.00 per employee.

Provided, however, that the surcharge provided by this subsection shall expire after December 31, 2000.

(c) If, at any time during the year it appears that the number of employees was under-reported at the time of application or renewal, an additional license fee and a penalty on the additional license fee shall be due. The penalty shall be equal to twenty percent (20%) per annum of the additional fee, plus any accounting, legal or administrative expenses incurred by the city in determining the under-reporting or in collecting the tax and penalty.

(d) The license fee for a business required to be licensed under this chapter and not located within the city's corporate limits shall be calculated based upon the total number of employees of the business actually working within the city.

(e) The annual license fee shall become due and payable on January 1st of each calendar year. The business license fee shall not be prorated for any part of any year. Provided, however, that the annual license fee for the 1997 licensing year shall not become due and payable until March 1, 1997.

(f) Payment made by draft or check shall not be deemed a payment of the fee unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check or draft operate as an acquittance or discharge of the fee unless and until the check or draft is honored.

(g) If any person required by the terms and provisions of this chapter to pay a license fee for any period fails or refuses to do so, he shall not be granted a license for the current period until the delinquent license fee, together with penalties, has been paid in full. Any license fee due and unpaid under this chapter and any penalties thereon, shall constitute a debt to the city and may be collected in court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

5.04.085 Penalty for late payment--Interest. For each payment due, if such payment is not made by the due date, there shall be added penalties as follows:

(1) For each payment or portion thereof that is more than 30 days past due, a penalty of 50% of the license fee due shall be imposed;

(2) For any payment or portion thereof that is more than 60 days past due, a penalty of 100% of the license fee due shall be imposed.

The Finance Director is authorized, but not obligated, to waive all or any portion of the penalties and interest provided

herein in the event that the Director determines that the late payment was the result of excusable neglect or extreme hardship.

5.04.090 Display of license--Renewal--Transfer. (a) **Display of License.** Every license granted under this chapter shall be posted in a conspicuous place in the place of business of the licensee. No person 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.

(b) **Renewal.** Each license granted shall expire at the end of the calendar year in which it is issued. Each licensee shall be responsible to renew the license for each ensuing calendar year.

(c) **Nontransferability.** Any license issued under and by virtue of the provisions of this chapter shall be personal and nontransferable.

(d) **New Location Desired.** A licensee shall have the right to change the location of the licensed business provided confirmation of the legality of the business activity at the new location is obtained by the Finance Director.

(e) **Multiple Locations.** In case a licensee desires to conduct business at two or more separate locations, a business license must be conspicuously posted at each location where business is transacted. Upon request, the Finance Director shall issue a duplicate business license for each such additional location. Prior to issuance of a duplicate business license for an additional location, the Finance Director shall first confirm the legality of the business at each such location.

5.04.100 Notification of exemption or termination of business activities. (a) Every person who has obtained a business license required by this chapter and who thereafter ceases to engage in business within the city shall, prior to the end of the calendar year during which business operations have been terminated, notify the Finance Director in writing that business activities have ceased. Any business for which a license has been issued shall be presumed to continue in operation within the city unless notice of termination of business activities has been given as provided above, and

enforcement proceedings may be commenced on the basis of such presumption.

(b) Every person who engages in a business in the city which is exempt from the licensing provisions of this chapter under federal, state or local laws shall notify the Finance Director in writing of the exemption and the basis for the exemption.

(c) Any business which is exempt from the provisions of this chapter or has terminated its business activities in the city shall not be entitled to a refund of any license fee paid under this chapter if such business has failed to provide written notice to the Finance Director as required by this section.

5.04.110 Operating without a license. Any person who engages in, or carries on, any business subject to the payment of a license fee hereunder without having obtained a business license to do so shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on; and any person subject thereto who fails or refuses to pay the license fee, or any part thereof, on or before the due date, shall be deemed to be operating without having obtained a license to do so.

5.04.120 License fee additional to others imposed. The license fee levied in this chapter shall be additional to any license fee or tax imposed or levied under the law or any other ordinance of the city except as expressly provided herein.

5.04.130 Exemptions. The provisions of this chapter shall not apply to:

(1) National banks, state banks, trust companies, mutual savings banks, building and loan associations with respect to their banking business, trust business or savings and loan business but not with respect to engaging in any other business subject to the provisions of this chapter;

(2) Any instrumentality of the United States, the State of Washington, or political subdivision thereof with respect to the exercise of governmental functions;

(3) Any farmer, gardener, or other person who sells, delivers or peddles any fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meat or any farm produce or edibles raised, caught, produced or manufactured by such person in the state;

(4) Family day care home occupations;

(5) Any nonprofit business operated without private profit, for a public, charitable, educational, literary, fraternal or religious purpose, upon furnishing proof to the Finance Director of its nonprofit status;

(6) Any apartment or condominium, residential rental or leasing activity which does not involve more than four residential units at any one location within the city;

(7) Any insurers or their agents who represent insurance companies or sell insurance to the public and are properly licensed by the state;

(8) Newspaper carriers under the age of 18;

(9) Any person, business, enterprise, firm, or corporation which the city is forbidden to license or tax under state or federal law.

5.04.140 Criteria for denial, suspension or revocation of license. The Finance Director may deny issuance of a business license to any applicant or suspend or revoke any and all business licenses of any holder when such person, or any other person with any interest in the application or license:

(1) Knowingly causes, aids, abets, or conspires with another to cause any person to violate any of the laws of this state or the city which may affect or relate to the applicant's or license holder's business;

(2) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(3) Is convicted of, forfeits bond upon, or pleads guilty to any offenses related to the operation of the applicant's or license holder's business;

(4) Makes a misrepresentation or fails to disclose a material fact to the city related to any of the obligations set forth in this chapter;

(5) Violates any building, safety, fire or health regulation on the premises in which the business is located after receiving warning from the city to refrain from such violations;

(6) Is in violation of a zoning regulation of the city;

(7) Is indebted or obligated to the city for past due taxes excluding special assessments such as LID assessments.

5.04.150 Request for hearing. (a) Notification of Suspension, Revocation, or Denial. When the Finance Director determines that there is cause for denying, suspending or revoking any license issued pursuant to this chapter, the Director shall notify the applicant or person holding such license by registered or certified mail, return receipt requested, of the Director's decision. Notice mailed to the address on file shall be deemed received three (3) days after mailing. The notice shall specify the grounds for the denial, suspension or revocation. The suspension or revocation shall become effective ten (10) days from the date the notice is delivered or deemed received unless the person affected thereby files a written request with the Director for a hearing before the City Hearing Examiner within such ten (10) day period.

(b) Hearing Procedure. Upon written request as set out above, the Hearing Examiner shall schedule and hold a hearing within thirty (30) days following receipt of such request. During the pendency of the hearing and until action by the City Council the action of the Director shall be stayed. At the hearing, both the applicant or licensee and the city shall be entitled to present evidence. Upon completion of the hearing, the Hearing Examiner shall make written findings and a recommendation to the City Council. At a public meeting, the City council, upon considering the findings and recommendations of the Hearing Examiner shall, without need for further evidence:

(1) Accept the Hearing Examiner's recommendation as presented; or

(2) Determine no action is warranted; or

(3) Modify the recommended action.

(c) Appeal from City Council. Appeal from a decision of the City Council shall be to the King County Superior Court and must be served and filed within thirty (30) days of the decision of the City Council. In the event the applicant or license holder does not follow the procedures within the time periods set forth above, the license of said person shall be denied, suspended or revoked, and that action shall be final.

(d) Return of License upon Revocation. Whenever any license issued under this chapter is revoked, the licensee shall immediately return the license to the Finance Director.

5.04.160 Penalties. Any person violating or failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in Section 1.01.110 of the Redmond Municipal Code.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Effective Date. This Ordinance is subject to referendum as set forth in RCW 35.21.706. Any duly qualified person may file a referendum petition with the City Clerk within seven (7) days after the passage of this Ordinance. In the event that such a petition is filed, the City Clerk shall, within ten (10) days, confer with the petitioner regarding the form and style of the petition, secure an accurate, concise, and positive ballot title from the City Attorney, and

assign an identification number to the petition. Thereafter, the petitioner shall have thirty (30) days within which to gather signatures from not less than fifteen percent (15%) of the City's registered voters as of the last municipal general election. In the event that no referendum petition is filed, this Ordinance shall take effect on the eighth (8th) day after its passage and publication of an approved summary thereof consisting of the title.

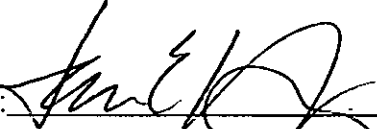
CITY OF REDMOND


MAYOR ROSEMARIE IVES

ATTEST/AUTHENTICATED:


CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: 

FILED WITH THE CITY CLERK:	December 13, 1996
PASSED BY THE CITY COUNCIL:	December 17, 1996
SIGNED BY THE MAYOR:	December 17, 1996
PUBLISHED:	December 21, 1996
EFFECTIVE DATE:	December 29, 1996
ORDINANCE NO. <u>1924</u>	