

ORDINANCE NO. 94

AN ORDINANCE PROVIDING FOR THE REGISTRATION OF BUSINESSES AND SOLICITORS WITHIN THE CITY OF SCOTTS MILLS; ESTABLISHING A REGISTRATION PROCESS; AND PROVIDING A PENALTY FOR VIOLATION THEREOF.

THE CITY OF SCOTTS MILLS ORDAINS AS FOLLOWS:

Section 1. Purpose.

The registration required and restrictions imposed by this ordinance are enacted primarily for the purpose of regulation of businesses and solicitors/solicitation. The public's interest is served by insuring that regulated businesses and solicitors/solicitations will be carried on in continuing compliance with applicable laws and ordinances and in a manner which does not detract from the public health, safety, or welfare. In addition, this ordinance is enacted to recoup the necessary expenses required to undertake the administration and enforcement of this ordinance and to provide revenue for law and code enforcement purposes. The payment the fee required hereunder and the acceptance of such fee and issuance of a business license by the City shall not entitle the registrant to carry on any business not in compliance with all the requirements of City ordinances and all other applicable laws.

Section 2. Definitions.

For the purpose of this ordinance, the following terms, phrases, and words are defined as follows:

- A. "Business" means any vocation, occupation, profession, enterprise, establishment, or any activity, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the City. This definition includes any transaction involving the rental of property, the manufacture or sale of goods, or the sale or rendering of services other than as an employee.
- B. "The City" means the City of Scotts Mills, Oregon.
- C. "City Council" means the City Council of the City of Scotts Mills, Oregon.
- D. "City Administrator" means the City Administrator, or any officer or employee designated by that person to perform duties described in this ordinance
- E. "Garage Sale" means a commercial activity, open to the public, conducted at a private residence where personal property is sold or auctioned to others, provided the number of sale days at a particular residence does not exceed three (3) days per occurrence, and no more than three (3) occurrences per calendar year.

F. "Person" means and includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations or any officers, agents, employees or any kind of personal representatives thereof, in any capacity, either on that person's own behalf or for any other person, under either personal appointment or pursuant to law.

G. "Home occupations" means a business in conjunction with a residential use which results in financial remuneration from a product or service and is conducted by at least one resident occupying the dwelling on the subject property. Home occupations are clearly incidental and accessory to residential use. All "home occupations" must comply with the following rules.

1. All business operations shall comply with the current noise ordinance and shall not produce offensive vibration, smoke, dust, odors, heat, glare, or electrical interference detectable to normal sensory perception at the property line.
2. No construction of any structure that would not otherwise be allowed in the zone in which the home occupation is located may be established (ORS 215.448(3)).
3. No storage and/or distribution of toxic or flammable materials and spray painting/finishing operations that involve toxic or flammable materials, which in the judgment of the Fire Marshal and/or the Department of Environmental Quality (DEQ) pose a dangerous risk to the residence, its occupants, and/or surrounding properties are allowed. Those individuals who are engaged in home occupations shall submit to the Planning Office the DEQ Potential Site Hazards Checklist which pertains to all potentially toxic and/or flammable materials associated with the use.
4. All parking and signage related to home occupation shall be on site, not in public right-of-way.
5. Home occupations shall be secondary to the residential use of the property.
6. All home occupations other than those deemed exempt shall be administered as Type I, II or III, distinguished by the potential impacts they represent to nearby properties.
8. Only the principal resident(s) of a residential property may undertake home occupations with nonresident employees as allowed by the type of home occupation.

9. In the event the requirements of this chapter conflict with other requirements contained in this title, the requirements of this chapter shall govern.

H. "Residential Rental Unit" means separate living quarters, which are rented, leased, or let in exchange for full or partial monetary compensation.

I. "Government Entities" means the federal government, the State of Oregon, a county, a special district, or a municipality.

J. "Local Business" is defined as a business with a physical address within the Scotts Mills zip code of 97375.

K. "Peddler" means any person over the age of 16 years who goes upon the premises of any private residence in the City, without invitation of the occupant or owner thereof, to offer goods, merchandise, or personal property, for sale, or to solicit orders for goods or services to be delivered in the future.

L. "Peddling" includes all activities ordinarily performed by a peddler as indicated under paragraph (4) of this Section.

M. "Solicitor" means any person 16 years of age or older who goes upon the premises of any private residence in the City without invitation of the occupant or owner thereof, and who communicates in any manner for the purpose of taking orders or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery or for services to be performed in the future. This definition also includes any person who, without invitation of the occupant or owner, goes upon private property to request contribution of funds or anything of value, or to sell goods or services, for any political, charitable, religious, or other non-commercial purpose.

N. "Solicitation" includes all activities, as ordinarily performed by a solicitor as indicated under this ordinance.

Section 3. Registration Required.

A. No person shall engage in any business within the City or transact any business specified in this ordinance, without first obtaining a business license and paying the required fee. The provisions of this ordinance shall be in addition to any other fee or registration requirements imposed by the City of Scotts Mills, unless otherwise specified.

B. A person engaged in business in more than one business, shall make a separate application for each business.

C. A person representing himself/herself or exhibiting any sign or advertisement that he/she is engaged in a business within the City shall be deemed to be actually engaged in such business and shall be liable for the payment of such business license fee and subject to the penalties for failure to comply with the requirements of this ordinance.

D. No person shall maintain or operate two or more residential rental units without first obtaining a business registration certificate and paying the prescribed fees.

Section 4. Rules.

Businesses must follow the following rules, and by applying for a business license agree to follow all these rules or face the potential termination of the business license.

1. Must maintain appropriate business registration with the state.
2. Have valid bond, license and insurance for business that require such, examples of such include, but are not limited to, contractors, plumbing, electrical and HVAC.

Solicitation/Solicitors must follow the following rules and by applying for a solicitation license agree to follow all these rules or face the potential termination of the solicitation/solicitor license.

1. It shall be unlawful for any person, whether a solicitation permit has been issued or otherwise, to go upon private, residential, commercial, or industrial property to solicit or peddle where the property owner or lessee has posted the words "No Solicitors" or their equivalent, in a conspicuous place near the entrance to the residence or property, unless invited by the occupant or owner of the premises.
2. Solicitation and/or peddling will only be permitted between the hours of 9:00 a.m. and 6:00 p.m. local time.

Section 5. Exemptions.

The following entities and types of activities are exempt from regulation under this ordinance. The person asserting an exemption under this ordinance shall have the burden of establishing eligibility for the exemption.

A. Nothing in this ordinance shall be construed to apply to any person transacting or carrying on any business within the City of Scotts Mills, which is exempt from taxation, by the City by virtue of the Constitution of the United States or the Constitution of the State of Oregon.

B. No person whose income is based solely on a wage or salary shall, for the purpose of this ordinance, be deemed a person transacting or carrying on any business in the City, and it is the intention that all registration taxes and fees will be borne by the employer.

C. Any business paying a franchise tax or transient occupancy tax under City ordinances is exempt from the requirements of this ordinance.

D. Persons whose sole business activity is making deliveries or taking orders are exempt from this ordinance.

E. Activities conducted pursuant to a special events permit issued by the City are exempt from the requirements of this ordinance.

F. Producers of farm products raised in Oregon, produced by themselves or their immediate families, who sell, vend, or dispose of such products within the City are exempt from this ordinance.

G. Nonprofit organizations, religious organizations, civic organizations, and clubs wishing to canvass for funds or sell door-to-door to raise funds or conduct fundraising events to be used solely for the purpose for which the organization was created, and from which no third party receives a profit are exempt from the requirements of this ordinance.

H. Garage sales as defined in this ordinance are exempt from the requirements of this ordinance.

I. Any person required to be licensed through any other City ordinance including, but not limited to activities such as, peddlers and solicitors," "public dances," or other licensed activities is exempt from this ordinance.

J. Government entities are exempt from the requirement of this ordinance.

Section 6. City Administrator Authority.

A. The City Administrator may adopt reasonable rules and regulations to carry out the provisions of and for enforcement of the provision of this ordinance. The Administrator shall prescribe forms for business registration application. The Administrator shall review or cause to be reviewed application for and renewals for business registrations and shall submit such applications to appropriate City departments for investigation to determine and comment on the applicant's compliance with City ordinance and other rules.

B. The City Administrator shall have the authority to approve, approve with conditions, or deny any application for or renewal of a business registration. If the Administrator determines that the application should be denied or approved with conditions, the Administrator shall notify the applicant in writing of the decision. The notice shall state the reason for the decision and inform the applicant of the provisions for appeal. If the Administrator's decision is to approve without conditions, issuance of the registration is notification of the decision, and it does not need to state any reason or appeal rights.

Section 7. Application Requirements.

A. Application for business and/or solicitation license shall be made to the City at least 14 days prior to the date the registration is requested to be effective. The application forms shall provide information necessary to determine the identity and address of the applicant and of the owner of the business to be registered and shall provide other information as may be requested by the City Administrator. The application shall be signed by the applicant and shall constitute the applicant's consent for the City to investigate the applicant's request including permission to enter property to be used in conducting the business. The applicant shall submit information necessary to evaluate the applicant's request and to determine compliance with applicable City of Scotts Mills ordinances. If the applicant fails to supply information so required or submits false or misleading information, the registration may be denied and if issued, may be revoked.

B. Applications shall be accompanied by any required fee. Application fees shall be non-refundable.

Section 8. Criteria for Approval or Denial.

A. Approval or denial of an application for initial issue or renewal shall be based on consideration of all available evidence indicating whether or not the applicant meets the requirements of City ordinances. In the event no grounds exist for denial of a certificate, a certificate shall be issued.

B. Any of the following may be grounds for denial of the certificate:

1. Any false or incomplete statement made or acknowledged on the application form; provided, however, that in the event such statement is the result of excusable neglect, the applicant may resubmit an application with appropriate corrections.
2. The business activity would not comply with City ordinances and could not be made to comply through the imposition of appropriate conditions.
3. A previous history of unlawful business activity by the applicant, which, if continued would be grounds for revocation of the certificate.
4. Business activity would endanger persons or property.

Section 9. Registrations and Renewals.

A. Business/Solicitation license is valid for one year, expiring on December 31st of the year.

B. Business/solicitation license shall be renewed by the payment of the annual fee on or before January 1st of the year following expiration.

C. The renewal application will indicate any change in use, ownership, or location of the business.

Section 10. Term, Transfers and Relocations.

A. Term: A business/Solicitation license issued under this ordinance shall be valid until December 31st of that year.

B. Transfer: In the event of the transfer of ownership of any business, the applicable registration certificate may be transferred by application to the City Administrator. An application shall be accompanied by a transfer fee.

Section 11. Fee.

A. As of the effective date of this ordinance fees shall be:

1. All local businesses, excepting home occupation businesses, shall pay an annual fee of one hundred dollars (\$100.00) per year. Non-local businesses shall pay an annual fee of two hundred dollars (\$200.00) per year
2. Home occupation businesses shall pay a reduced annual fee of twenty-five dollars (\$25.00).
3. The transfer of ownership fee shall be twenty dollars (\$20.00).
4. Solicitation fee shall be ten dollars (\$10.00).
5. Businesses that require an OLCC license shall pay an additional fifty dollars (\$50.00) per year.
6. Business that sell tobacco shall pay an additional fifteen dollars (\$15.00) per year.

B. Future fees shall be set by the council, with changes made no more than once per year.

Section 12. Use of Revenue.

Revenue derived from Business Registration fees shall be used to recoup the cost of administering and enforcing the program. Any fees collected in excess of amounts necessary to recoup the costs of program administration and enforcement shall be dedicated to the general fund.

Section 13. Revocation of Registration.

The City Administrator, upon determining that unlawful business activity is occurring or has occurred, or that a business would not qualify for a license pursuant to this ordinance, shall notify the licensee in writing that the license is to be revoked. The notice shall be sent at least

fourteen (14) days before the date of revocation. If the activity giving rise to the need for the revocation proceedings is discontinued, the City Administrator may terminate the proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the provisions for appeal.

Section 14. Appeal.

A. A business whose registration has been denied renewal, or is to be revoked, may within thirty (30) days after the notice of denial, or revocation is mailed, appeal in writing to the City Council. The appeal shall state:

1. The name and address of the appellant.
2. The nature of the determination being appealed.
3. The reason the determination is incorrect; and
4. What the proposed determination of the appeal should be.

B. An appellant who fails to file such a statement within the time permitted waives his/her objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The City Council shall hear and determine the appeal based on the written statement and such additional evidence as it considers appropriate.

C. At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence as used by courts of law do not apply, and the decision of the City Council after the hearing is final.

Section 15. Display Required.

All registration certificates issued in accordance with this ordinance shall be openly displayed in the place of business or kept on the person or on the vehicle of the person registered. Failure to display or carry such registration shall be deemed a violation of this ordinance.

Section 16. Violation – Penalty.

A. A violation of any provision of this ordinance constitutes a Class 2 civil infraction and shall be processed according to the procedures contained in the Scotts Mills Civil Infractions ordinance.

B. A finding that a person has committed a violation of this ordinance shall not act to relieve the person from payment of any unpaid business fee, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City.

Section 17. Delinquency Charge.

In addition to the business registration fee required by this ordinance, a delinquency charge in the amount of 50% of the applicable fee shall be assessed if the annual renewal fee is not paid within 15 days after the anniversary date of the original issuance of the business registration.

Section 18. Severability.

Each portion of this ordinance shall be deemed severable from any other portion. The unconstitutionality or invalidity of any portion of this ordinance shall not invalidate the remainder of this ordinance.

Read first in full, and then by title on this 2nd day of November 2022

Passed by the Scotts Mills City Council on this 7th day of December 2022

Ayes: 4

Nays: 0

SIGNED BY:



Paul Brakeman, Mayor

ATTESTED BY:



Robin Fournier, City Manager