

TITLE III

BUSINESS AND OCCUPATION

CHAPTERS

- 30. Licenses Generally**
- 31. Police Protective Licenses**
- 32. Reserved for Expansion**
- 33. Building and Trades Licenses**
- 34. Vehicles for Hire**
- 35. Public Utilities**
- 36. Tourist Parks**
- 37. Transient Occupancy Tax**
- 38. Fire Alarm Permits and Regulations**
- 38A. Security Alarm Systems**
- 39. Tobacco Retail Licenses**
- 40. Reserved for Expansion**
- 41. Development Fee**
- 42. Permits**
- 43. Cable Communication and Television Systems**
- 44. Salem Downtown Economic Improvement District**

CHAPTER 30 LICENSES GENERALLY

- 30.005. Purpose and Scope
- 30.010. License Required
- 30.012. Characteristics of License
- 30.020. Definitions
- 30.030. Application for License
- 30.032. False Statements by Applicant
- 30.034. Issuance of License
- 30.036. Renewal of License; Penalties for Delinquent Renewal
- 30.038. Grounds for Denial of License or Renewal
- 30.040. License Fees; Proration, Refund and Waiver
- 30.050. Adjustment of License Fees for Persons Engaged in Interstate Commerce
- 30.070. Separate License to be Obtained for Each Place of Business
- 30.080. Form and Contents of the License
- 30.090. Term of License
- 30.100. Change in Location of Place of Business
- 30.110. License to be Posted or Carried by Licensee
- 30.120. Suspension of License; Grounds
- 30.122. Revocation of License; Action by Council
- 30.124. Suspension of License for Failure of Bond or Insurance
- 30.130. Appeal; Stay of Suspension
- 30.140. Manner of Giving Notice
- 30.150. License Bonds; Continuation Certificate
- 30.990. Violations

30.005. Purpose and Scope. Licenses required and restrictions imposed incident thereto as provided in Title III of this Code are intended for the purpose of regulation of those businesses and vocations in which the public has an interest in such a manner as to insure that such businesses and vocations will be conducted in continuing compliance with all applicable laws and ordinances, and a manner comporting with the public health, safety, and general welfare. Such licenses and provisions relating thereto are provided for in the exercise of the police power of the city, and the license and application fees incident thereto are intended as a means of defraying the costs of administering and enforcing such provisions and not as a means of obtaining revenue. (Ord No. 32-73)

30.010. License Required.

- (a) It shall be unlawful for any person to engage in or conduct any business or vocation for which a license is required under any provision of Title III of this Code unless and until such person has been issued a license therefor pursuant to the provisions of this chapter.
- (b) It shall be unlawful for any person who acts as manager, factor, agent, employee-in-charge or is otherwise in actual, present supervisory control of any business for which a license is required under the provisions of Title III of this Code, to suffer, permit, direct, or allow the operation or continuation of such business at any time when there is not then in full force and effect a license therefor issued pursuant to the provisions of this chapter or in any manner amounting to a violation of any duty or prohibition imposed on such business by any provision of this Code. (Ord No. 131-65; Ord No. 32-73)

30.012. Characteristics of License. A license issued pursuant to this chapter shall:

- (a) Be a purely personal privilege.
- (b) Be valid only for the term provided in SRC 30.090.
- (c) Be renewable as provided in SRC 30.036.
- (d) Be revocable or suspendible as provided in SRC 30.120 and 30.122.
- (e) Cease upon the death or dissolution of the licensee.
- (f) Not constitute property.
- (g) Not be alienable or transferrable.
- (h) Not be subject to attachment or execution.
- (j) Not descend or escheat by the laws of testate or intestate devolution. (Ord No. 32-73)

30.020. Definitions. As used in Title III of the Salem Revised Code, unless the context otherwise requires:

- (a) "Annual" or "annually" means during that period from and including January 1 through and including December 31 of each year.
- (b) "Business" means any act, activity, or conduct engaged in, whether for profit or not, but not by an individual as the employee of another or as the officer of a corporation. The term "business" includes causing the goods or services of the business to be advertised as being available to the public. The term "business" shall not include federal, state, or local governmental unit or any board, commission, or other instrumentality thereof.
- (c) "Director" means the City Manager, or the department head charged by the City Manager with the of the provisions of this Title, or that department head's designee.
- (d) "License," as used in this Chapter, includes the privilege of making application for any license or renewal thereof required under the provisions of Title III of this Code.
- (e) "Person" means any individual, corporation, limited liability company, partnership, association, firm, joint venture, or other organized and identifiable group or combination of such persons, or other entity in law or fact.
- (f) "Vocation" means any act, activity, or conduct engaged in by an individual acting as the employee, agent, contractor, owner, or other representative of a business wherein that individual personally carries on the activity or offering of such business. (Ord No. 131-65; Ord No. 32-73; Ord No. 168-80; Ord No. 92-83; Ord No. 56-93; Ord No. 4-98; Ord No. 42-09)

30.030. Application for License. Any person desiring to obtain a license to engage in or conduct any business or vocation for which a license is required under the provisions of Title III of this Code may make application therefor to the director on such forms and in such a manner as the director may prescribe. Such application shall be accompanied by any application fee prescribed by resolution of the council, and shall include the following information together with any other information which may be specifically required elsewhere in this Code in connection with the license being applied for:

- (a) The name of the person to whom the license is to be issued.
- (b) The names and residence addresses of all persons interested as principals, partners, corporate officers, and stockholders holding more than 10 percent of the voting stock in any applicant other than a natural person.
- (c) The address to which mail concerning the license may be sent.
- (d) All business addresses maintained or to be maintained in the State of Oregon by the applicant for a business license.
- (e) The residence address of the person signing the application, which person shall be a resident of Oregon, and shall be the licensee's agent for personal service of any notice concerning the license.

- (f) A brief description of the business or vocation for which the license is sought.
- (g) The signature of the applicant, if a natural person, or otherwise the signature of one of those persons listed in subsection (b) of this section.
- (h) If the application is for a vocation license, two identical passport-type photographs of the applicant taken not more than 60 days prior to filing of the application shall accompany the application. (Ord No. 131-65; Ord No. 32-73; Ord No. 51-91; Ord No. 56-93; Ord No. 4-98)

30.032. False Statements by Applicant. It shall be unlawful for any person to willfully make any false, untrue, or misleading statement on any application for a license or renewal thereof; or to willfully withhold information or make incomplete disclosure concerning any matter required to be furnished in connection with any such application. (Ord No. 32-73)

30.034. Issuance of License.

- (a) Upon receipt of the application and application fee the director shall forward copies of the application to every city official who may be authorized or required by any provision of this Code to make investigation of the applicant, and shall personally review the application and conduct whatever investigation the director may deem necessary to determine whether such application is complete and the statements made therein are true.
- (b) Upon receipt of investigation reports and recommendations from any city officials to whom copies of the application were sent pursuant to subsection (a) of this section, the director shall review such reports and recommendations together with any findings of his or her own investigation and shall determine whether there is any cause why the license applied for should not be granted. In the event that no such cause is found, the director shall notify the applicant that the application has been approved; and, upon payment of the license fee prescribed by resolution of the council and the filing of any bond required, the director shall issue a license conforming to SRC 30.080.
- (c) In the event that the director finds any cause why the license applied for should not be issued, he or she shall deny the license and notify the applicant of such action in the manner prescribed in SRC 30.140. Such notice shall contain a statement of the reasons for such denial.
- (d) In lieu of denial of a license as provided in subsection (c) of this section, the director may refer the application to the council for their approval by filing the application with the city recorder together with a statement of the findings of any investigation authorized or required by any provisions of this Code and the director's request that such application be reviewed by the council. The director shall notify the applicant of such action in the manner provided in SRC 30.140. (Ord No. 32-73; Ord No. 51-91; Ord No. 56-93; Ord No. 4-98)

30.036. Renewal of License; Penalties for Delinquent Renewal.

- (a) Within the time provided under subsection (b) of this section, the holder of any license issued pursuant to the provisions of this chapter may make application to the director for renewal of such license on such forms and in such a manner as the director may prescribe. Such application shall be accompanied by the license fee prescribed by resolution of the council together with adequate proof that any bond required is and will remain current for the period of the new license; however, no application fee shall be required. The renewed license is effective as of the expiration date of the prior license.
- (b) The renewal application prescribed in subsection (a) of this section shall be in the hands of the director within the following time limits:
 - (1) For an annual license, not later than 5:00 p.m., December 31 of the year during which the license sought to be renewed is valid; or, should such day fall on a Saturday

or Sunday, then not later than 5:00 p.m. of the preceding Friday.

(2) For licenses with other than an annual term, not less than five days prior to the expiration of the license being renewed;

(c) Upon receipt of a license renewal application, the director may make or cause to be made whatever investigation the director deems necessary to determine whether the licensee has, in all respects, conducted the licensed business in such a manner as to comply with all federal, state, and local laws and ordinances. In the event that the director finds no cause why the license should not be renewed, the director shall issue a renewed license conforming to SRC 30.080. In the event that renewal of the license is denied, the license renewal fee shall be refunded.

(d) In the event that the director finds any cause why the license applied for should not be renewed, the director may either deny such renewal or refer the application to council in the manner set forth in SRC 30.034(d).

(e) A penalty shall be collected with the license fee for any renewal application for an annual license received more than 15 days after the license expiration date, as follows: 25% of the amount of the license on applications renewed before March 1; 50% of the amount of the license on applications renewed before July 1; provided that on or after March 1 and if more than 59 days have elapsed after expiration of a multi-unit license, the penalty shall be 50 percent of the license fee or \$25, whichever is greater. No license shall be renewed under this section after June 30 following the date of expiration of the license. (Ord No. 32-73; Ord No. 7-86; Ord No. 51-91; Ord No. 56-93; Ord No. 4-98)

30.038. Grounds for Denial of License or Renewal.

(a) The following shall be grounds for denial of any license or renewal:

(1) Any untrue or incomplete statement made by the applicant on the application form; provided, however, that in the event that such untrue or incomplete application is the result of excusable neglect, the applicant may, without prejudice, resubmit an application in which such defect is corrected.

(2) Past or present violation of law or ordinance, including a violation that does not lead to a conviction, which presents a reasonable doubt about applicant's ability to perform the licensed activity without endangering property or the public health and safety.

(3) Commission, within the ten years immediately preceding the date of application, of any act involving misconduct in connection with any business or vocation engaged in by the applicant, and which would be punishable as a criminal offense under the provisions of any federal, state, or local law or ordinance in effect at the time and place of the commission of such act.

(4) Any history of conduct by the applicant in connection with any business or vocation which, if continued by the applicant in connection with the business or vocation subject of the license being sought, would constitute grounds for suspension of a license to engage in or conduct such business or vocation.

(5) Pending arrests for or standing warrants for violations of local, state or federal laws which would present a reasonable doubt about applicant's ability to perform the licensed activity without danger to property or public health and safety.

(b) If the director is satisfied that the public interest would be best served thereby, the director may waive any of the grounds set forth in subsection (a) of this section. (Ord No. 32-73; Ord No. 17-85; Ord No. 9-89; Ord No. 56-93; Ord No. 4-98)

30.040. License Fees; Proration, Refund and Waiver.

- (a) Fees for licenses required under the provisions of this title shall be as prescribed by resolution of the council.
- (b) In the case of licenses issued annually, three-fourths of the license fee shall be required if the application is filed on or after July 1 and on or before September 30 of any calendar year; one-half of the license fee shall be required if the application is filed on or after October 1 of any calendar year.
- (c) If the director determines that a business has been operated without a license in violation of this chapter, the director shall assess double the license fee for each year or part thereof in which the business was so operated. The director's determination may be reviewed in the manner set forth in SRC 30.130.
- (d) Fees for a peddler or solicitor may be waived by the director upon proof of indigency. Indigency shall be established by the submittal of an affidavit of indigency in which it is averred that the affiant is without funds or resources with which to pay the fee. (Ord No. 32-73; Ord No. 9-89; Ord No. 51-91; Ord No. 56-93; Ord No. 4-98; Ord No. 67-99)

30.050. Adjustment of License Fees for Persons Engaged in Interstate Commerce. None of the license fees provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon such commerce, that person may petition the director for adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such petition shall be made within six months after the license or renewal application is filed. The applicant shall, by affidavit and supporting testimony, show the method of business and the gross volume or estimated gross volume of business and such other information as the director may deem necessary in order to determine the extent, if any, of undue burden on interstate commerce. The director shall then conduct an investigation, comparing the petitioner's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed by this chapter is unfair, unreasonable, or discriminatory as to the petitioner's business, and shall fix as the license fee for the applicant an amount that is fair, reasonable, and nondiscriminatory; or, if the fee has already been paid, shall order a refund of any amount actually paid over and above the fee so fixed. In fixing the fee to be charged, the director shall have the power to base the fee upon a percentage of gross sales or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fees as prescribed by resolution of the council. Should the director determine the gross sales measure of the fee to be the fair basis, the director may require the applicant to submit, either at the time of termination of the applicant's business in the city or at the end of each three-month period, a sworn statement of the applicant's gross sales and require the applicant to pay the amount of fee therefor; provided that no additional fee during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license prescribed by resolution of the council. (Ord No. 131-65; Ord No. 32-73; Ord No. 5-93; Ord 56-93; Ord No. 4-98)

30.070. Separate License to be Obtained for Each Place of Business. A separate license shall be secured for each and every place or premises occupied by a business for the purpose of or incident to carrying on the business activity thereof. Businesses which operate within the city but do not maintain any fixed place of business therein shall obtain only one license for such business. (Ord No. 32-73)

30.080. Form and Contents of the License.

- (a) Every business license issued under the provisions of this chapter shall contain the name and business address of the licensee, the nature of the business, the dates of issuance and expiration of such license, and the signature of the director.

(b) Every vocation license issued under the provisions of this chapter shall be in the form of a wallet-sized card, and shall contain the name of the licensee, the nature of the vocation, the date of issuance and expiration of such license, a passport-type photograph of the licensee's face, a place for the licensee's signature, and the signature of the director (Ord No. 131-65; Ord No. 32-73; Ord No. 56-93; Ord No. 4-98)

30.090. Term of License. All licenses issued under the provisions of this chapter shall be for an annual term unless otherwise specified, and shall be valid and effective from the date of issuance set forth upon such license until the expiration of the specified term. Licenses for terms of less than one year shall take effect on the date of issuance set forth thereon. (Ord No. 131-65; Ord No. 32-73)

30.100. Change in Location of Place of Business. In the event of a change in the location of the place of business covered by any business license and owned or operated by the same person, no new license need be secured unless hereinafter required, but written notice of such change in the place of business shall be given to the director within ten days after the licensee begins operation of the licensed business at such new location. (Ord No. 131-65; Ord No. 32-73; Ord No. 56-93; Ord No. 4-98)

30.110. License to be Posted or Carried by Licensee.

(a) Every holder of a business license required by the provisions of this title shall post such license in a conspicuous place in the place of business covered by such license; or, if there is no place of business, such license shall be carried continuously by the licensee while engaged in the licensed business and shall be presented for examination upon request of any citizen or officer of the city.

(b) A vocation license is not valid until the license card is signed by the person to whom it is issued. Such license card shall be carried continuously by the licensee while engaged in the licensed vocation and shall be presented for examination upon request of any citizen or officer of the city.

(c) It is a defense to any charge under subsection (b) of this section that the person so charged produce in court a license card that had been issued to the person and was valid at the time of the violation so charged. (Ord No. 131-65; Ord No. 32-73; Ord No. 4-98)

30.120. Suspension of License; Grounds.

(a) The director may suspend for no more than 60 days any license issued under the provisions of this chapter for any of the following reasons:

- (1) Any fraud, misrepresentation, or false statement contained in the application for such license.
- (2) Any violation of a federal, state, or local law which may indicate that such licensee is unfit to conduct the business or vocation for which the license was issued.
- (3) Conducting the licensed business or vocation in an unlawful manner, in such a manner as to constitute a breach of the peace, or in a manner not comporting with the public health, safety, or general welfare.
- (4) Any other ground for suspension which may be specifically provided for a particular type of license under any provision of this Code.

(b) Notice of suspension of a license shall be given in the manner set forth in SRC 30.140. Such notice shall set forth specifically the grounds for such suspension, and shall inform the licensee of his or her rights as provided in SRC 30.130.

(c) Such suspension shall be in effect from and after the posting or delivery of notice or five days after mailing of notice as provided in SRC 30.140.

(d) It shall be unlawful for any person to engage in any business or vocation for which the person's license has been suspended. (Ord No. 131-65; Ord No. 14-67; Ord No. 32-73; Ord No. 193-79; Ord No. 56-93; Ord No. 4-98)

30.122. Revocation of License; Action by Council.

(a) In addition to or in lieu of suspension as provided in SRC 30.120 the director may refer any license to the council with a recommendation that such license be revoked. Such recommendation shall set forth the cause therefor, and shall be filed with the city recorder. Notice thereof shall be given to the licensee as provided in SRC 30.140.

(b) Upon receipt of such recommendation, the city recorder shall place the same before the council at its next regularly scheduled meeting. The council shall then set a date for a hearing upon the matter and cause notice thereof to be given to the licensee in the manner provided in SRC 30.140.

(c) At the hearing before the council, the director shall make any statement and present any evidence and testimony in support of a recommendation, and the licensee shall then be given the opportunity to make any statement and present any evidence and testimony in rebuttal of the director's recommendation.

(d) Upon consideration of all matter brought before it upon the hearing, the council may affirm, disaffirm, or modify the recommendation of the director; and may order that the license be revoked, may order that the license be suspended for any period of time up to one year, or may order that the license be so revoked or suspended as of a date certain unless the licensee takes such action to correct the problems giving rise to the director's recommendation as the council may specifically direct.

(e) Nothing in this section shall be construed as prohibiting the council, on its own motion, from revoking any business or vocation license after a hearing with notice to the licensee as provided in SRC 30.140.

(f) It shall be unlawful for any person to engage in any business or vocation when the person's license has been revoked. (Ord No. 32-73; Ord No. 193-79; Ord No. 56-93; Ord No. 4-98)

30.124. Suspension of License for Failure of Bond or Insurance. Whenever any bond or policy of insurance is required in connection with any license required by this title, the maintenance thereof in full force and effect shall be a condition of the validity of any license issued under this chapter. Upon receiving information that such bond or insurance is, for any reason, no longer in full force and effect, the director shall summarily suspend such license, giving notice of such action to the licensee as provided in SRC 30.140. Such suspension shall not be appealable nor referable to the council, and shall continue in effect until the licensee furnishes proof to the director that the person has a new or reinstated surety bond or policy of insurance in the amount and form required. (Ord No. 32-73; Ord No. 56-93; Ord No. 4-98)

30.130. Appeal; Stay of Suspension.

(a) Any person aggrieved by the decision of the director in regard to the denial of the application for license pursuant to SRC 30.030, or in connection with suspension of a license pursuant to SRC 30.120 shall have the right of appeal to the council. Such appeal shall be taken by filing with the city recorder within 14 days after notice of the action complained of, a written notice describing with certainty the action of the director from which the appeal is taken and a declaration that such person takes appeal to the council from such action. The council shall set a time and place for a hearing on such appeal, causing notice thereof to be

given to the appellant in the manner provided in SRC 30.140. The decision and order of the council on such appeal shall be final and conclusive.

(b) Upon proper filing of notice of appeal as provided in this section, the order of the director suspending a license is stayed automatically; provided that the council may, upon application of the director and for cause shown, order that the suspension be reinstated pending determination on the appeal. (Ord No. 131-65; Ord No. 32-73; Ord No. 56-93)

30.140. Manner of Giving Notice.

(a) Notice of any formal action or hearing relating to any license or application therefor shall be given to the licensee or applicant in any of the following manners:

(1) By deposit with the U. S. Postal Service of such notice, enclosed in an envelope, postage fully prepaid, plainly addressed to such licensee or applicant, or the agent for notice of the licensee or applicant, to the licensee's address as shown by records of the director; such envelope shall be properly marked for delivery by certified mail, return receipt requested.

(2) By personal delivery of such notice to the licensee or applicant, or the agent for notice of the licensee or applicant.

(3) By posting such notice in any conspicuous place on any business premises maintained by a licensee in connection with a licensed business.

(b) The certificate of any person over the age of 18 years that he did, at the direction of the director or council, give notice in any manner provided herein shall be conclusive evidence that due and sufficient notice was given to the licensee or applicant. (Ord No. 32-73; Ord No. 56-93; Ord No. 4-98)

30.150. License Bonds; Continuation Certificate.

(a) Except as provided in subsection (b) of this section, whenever a license bond is required under any of the provisions of Title III of this Code, it shall be issued by a corporate surety authorized to transact business in the State of Oregon, be on a form provided by the City of Salem and approved by the city attorney, and be for the term of the license which it secures. Upon renewal of a license for a new term a new bond shall be provided for that term except as provided in subsection (b) of this section.

(b) In lieu of furnishing a new bond for a renewed license, the applicant may furnish the surety's certificate of continuation of the original bond on a form approved by the city attorney, along with the certificate of the principal and either the surety or the surety's authorized agent to the effect that no claims have been made against the bond, and that the parties have no knowledge of the pendency of any unreported claims or circumstances which would give rise thereto.

(c) It shall be unlawful for any person to knowingly or recklessly misstate any material fact on the certificate mentioned in subsection (b) of this section. Violation of this subsection is an infraction. (Ord No. 71-80)

30.990. Violations.

(a) Except as provided in subsection (b) of this section violation of SRC 30.010 is an infraction.

(b) If a violator refuses or willfully fails to discontinue a violation of SRC 30.010 after being lawfully directed by a police officer or other official charged with the enforcement of this chapter to do so, the violation is a misdemeanor. (Ord No. 193-79; Ord No. 47-97; Ord No. 4-98)

