

ORDINANCE #402

AN ORDINANCE RELATING TO BUSINESS LICENSES AND REGULATIONS; PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ORDINANCES #116, #121, #133, #149, #164, #234, AND #279.

WHEREAS: The Town Council of Yacolt, Washington, is in regular session this 16th day of October, 2000; and

WHEREAS: All members of the Town Council have had notice of time, place, and purpose of said meeting; and

WHEREAS: The Town of Yacolt has the authority pursuant to RCW 35.27.370(9) to license, for purposes of regulation and revenue, all and every kind of business, authorized by law and transacted or carried on in the Town; and all shows, exhibitions and lawful games carried on therein and within one (1) mile of the corporate limits of the Town; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; and

WHEREAS: The Town of Yacolt has the authority pursuant to RCW 35.27.370(14) to impose fines, penalties and forfeitures for any and all violations of ordinances, and to provide that violations of ordinances constitute a civil violation subject to a monetary penalty, but no act which is a state crime may be made a civil violation; and

WHEREAS: The Town Council is of the opinion that it would be in the best interest for the Town to adopt this Ordinance; and

NOW THEREFORE: BE IT ORDAINED BY THE TOWN COUNCIL OF YACOLT, WASHINGTON, as follows:

SECTION 1: Exercise of revenue license power.

The provisions of this Ordinance shall be deemed an exercise of power of the Town to license for revenue.

SECTION 2: Definitions.

In construing the provisions of this Ordinance, except when otherwise declared or clearly apparent from the context, the following definitions shall be applied:

- A. "Engaging in business" means commencing, conducting or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business;
- B. "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, company, firm, copartnership, joint venture company, joint stock company, business trust, corporation, association, or any group of individuals acting as a unit. It shall not include clubs, fraternities or any other type of association of a benevolent, charitable, religious or fraternal nature, nor shall it include any public or private school or members of associations thereof;
- C. "Retail business activity" includes all activities, engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly, carried on for the purpose of selling goods or services to ultimate consumers. It shall not include those activities carried on to make sales at wholesale, nor those activities carried on for the purpose of making sales to persons for the purpose of their making a resale in the regular course of business. The term includes those activities carried on by professional persons for the purpose of rendering benefits and services to ultimate consumers. Professional persons include, at least, the following: physicians, veterinarians, dentists, lawyers, engineers, architects, obstetricians and real estate brokers.
- D. "Taxpayer" includes any individual, group of individuals, corporations or associations required to have a business license hereunder, or liable for any license fee or tax, or for the collection of any license fee or tax hereunder, or who engages in any business, or who performs any act, service, or labor receiving wages, salary, commission or other compensation having monetary value.
- E. "Town" means the Town of Yacolt.
- F. Words in the singular number shall include the plural, and the plural shall include the singular. Words in one gender shall include all other genders.

SECTION 3: Exemptions.

The provisions of this ordinance shall not apply to:

- A. Persons selling personal property at wholesale to dealers in such articles;
- B. Newsboys;
- C. Merchants or their employees delivering goods in the regular course of business;
- D. Persons conducting garage sales;
- E. Sales or solicitations conducted by a charitable, religious, patriotic or philanthropic organization; provided, however, that such organization, association or corporation shall furnish all of its members, agents or representatives conducting solicitation credentials, stating the name of the organization, the name of the agent and the purpose of the solicitation.

SECTION 4: Business license required.

- A. No person shall engage in any retail business activity in the Town without have first obtained and being the holder of a valid and subsisting license to do so, to be known as a business license, issued under the provisions of this Ordinance as hereinafter provided, without paying the license fee or tax imposed by this Ordinance in the amount of twenty-five dollars (\$25.00) which sum shall accompany the application for the license. Such license shall expire at the end of the calendar year in which it is issued, and a new license shall be required for each calendar year. Applications for the license shall be made to and issued by the clerk/treasurer of the Town.
- B. The license shall be personal and nontransferable. In case the same type of business is transacted under the same business name at two or more separate places by one taxpayer on a permanent basis, a separate license for each place at which business is transacted with the public shall be required, but for such additional license no additional fee shall be required. Each license shall be numbered, shall show the name, place and character of the business of the taxpayer, and such other information as the clerk/treasurer of the Town deems necessary, and shall at all times be conspicuously posted in the place of business for which it is issued. If the place of business of the taxpayer is changed, the taxpayer shall return to the clerk/treasurer of the Town and a new license shall be issued for the new place of business free of charge.
- C. No person to whom a license has been issued pursuant to this Ordinance shall suffer or allow any other person for whom a separate license is required to operate under or display such license.

SECTION 5: Additional license fees.

The license fees and tax herein levied shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the Town except as herein otherwise expressly provided.

SECTION 6: Violations – Penalties.

Any person violating or failing to comply with any of the provisions of this Ordinance, shall be assessed a civil penalty not to exceed five hundred dollars (\$500.00) plus legal fees.

SECTION 7: Method of business license payment.

The license fee payable under this Ordinance shall be paid to the Town clerk/treasurer by bank draft, certified check, cashier's check, personal check or money order made payable to the order of the Town, or in cash. If payment is made by draft or check, the fee shall not be deemed paid unless the draft or check is honored in the usual course of business; nor shall the acceptance of any sum by the clerk/treasurer be an acquittance or discharge of the fee due unless the amount of the payment is the full and actual amount due. The clerk/treasurer is authorized, but not required, to mail to persons forms for application for the license, but failure of the person to receive any such forms shall not excuse him from making application for and securing the license required as due under this Ordinance.

SECTION 8: Sale of transfer of business.

Upon the sale or transfer during any calendar year of a business on account of which a license fee is required by this Ordinance, the purchaser or transferee shall be responsible for obtaining a license.

SECTION 9: Tax or fee constitutes debt.

Any license fee due and unpaid under this Ordinance, and all penalties thereon, shall constitute a debt to the Town of Yacolt and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

SECTION 10: License revocation.

The Town Council may revoke the license issued to any person who is in default of any payment of any license fee hereunder, or who shall fail to comply with any of the provisions of this Ordinance. Notice of such revocation shall be mailed to the person by the clerk/treasurer, and on and after the date thereof any such person who continues to engage in business shall be deemed to be operating without a license and shall be subject to any or all penalties herein provided.

SECTION 11: Notices.

Any notice required by this Ordinance to be mailed shall be sent by ordinary mail, addressed to the address of the person or taxpayer as shown by the records of the Town clerk/treasurer, or if no such address is shown, to such address as the Town clerk/treasurer is able to ascertain by reasonable effort. Failure of the person or taxpayer to receive such mailed notice shall not release the taxpayer from any license fee or tax or penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this Ordinance.

The Ordinance shall take effect and be in force January 1, 2001, after its adoption and publication according to law.

Passed by the Town Council of the Town of Yacolt, Washington on this 16th day of October, 2000.

AYES Roberts, Case, Mason

NAYES None

ABSENT Smith, Messer

MAYOR Jim Robertson ATTEST Brenda Finnegan

I hereby certify that this is a true and correct copy of Ordinance #402 as read before the Council and passed on the date herein mentioned and passed according to law.

ATTEST Brenda Finnegan
Brenda Finnegan, Clerk/Treasurer