



ORDINANCE NO. 709

AN ORDINANCE REPEALING ORDINANCE NO. 283 AND ORDINANCE NO. 637 AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; REGULATING BUSINESSES OR REQUIRING A LICENSE FOR THE OPERATION OF BUSINESSES WITHIN THE CITY OF REXBURG, IDAHO; AND PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE AND FOR SEVERABILITY; AND PROVIDING WHEN SAID ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF REXBURG, IDAHO:

SECTION I: SCOPE. The provisions of this ordinance apply to all business licenses of the city, except where an ordinance concerning a particular business contains a specific provision to the contrary, in which case the specific provision shall apply.

A further purpose of this ordinance is to provide one document covering all license fees and investigation fees or processing fees connected with the issuance or renewal of licenses for any business licensed by the city. The fees provided herein shall apply in place of any earlier provision in any other ordinance. The fees and charges for businesses or operations not listed in this ordinance shall be as stated in the specific ordinances or parts of ordinances relating to those businesses or operations.

SECTION II: TYPES OF FEES. The following are the types of fees that are covered by this ordinance:

- A. A license fee, paid by the operator of the business for the issuance of the license.
- B. A nonrefundable investigation fee, covering the cost of investigating to determine whether the applicant is eligible for a license. This type of fee shall be charged only in instances specified in this ordinance or in any other applicable ordinance. This fee shall be in addition to the license fee.
- C. A nonrefundable processing fee, covering the cost of processing an application. This type of fee shall be charged only in instances specified in this ordinance or in any other applicable ordinance. This fee shall be in addition to the license fee.

SECTION III: FEES ESTABLISHED. Until otherwise provided by ordinance, the following annual fees shall be charged for the businesses and operations specified. The fee shall be a license fee unless the phrase "investigation fee" or the phrase "processing fee" appears with the amount of the fee. (See Schedule "A" attached hereto.)

SECTION IV: DEFINITIONS. As used in any ordinance regulating business or requiring a license for the operation of a business, the following terms shall have the following meanings, except where the context clearly indicates that a different meaning is intended and except where an ordinance concerning a particular business contains a specific provision to the contrary:

ADULT: Any person eighteen years of age or older.

APPROVED: Complying with all applicable state laws and city ordinances. The word "approved" does not give any city officer or employee discretion to fail to approve any item method, except for failure to comply with applicable city ordinances and state laws.

CHILD: Any person under the age of eighteen years, provided that provisions relating to sale of liquor may refer to persons under the age of twenty-one years, and other ordinances may refer to persons of younger ages.

CITY: The City of Rexburg, Idaho.

CITY OFFICER: When duties and responsibilities are given to any city officer such as the city clerk

or the chief of police, the duties may be performed by the named officer or any city officer or employee under that officer's supervision, if that city officer or employee has been assigned by his superior to perform the duties in question. Duties concerning drafting regulations, drafting forms or making recommendations to the governing body of the city are not to be delegated. Duties concerning administrative appeals are not to be delegated.

CLERK: The city clerk.

DANGEROUS: Not safe. See Safe.

LICENSE APPEAL: An appeal in accordance with city ordinances relating to license appeals.

LICENSE YEAR: The period for which business licenses are issued. In the absence of a specific provision to the contrary relating to a particular business, the license year is from January 1st to December 31st of the following year.

MINOR OR MINOR CHILD: This has the same meaning as child.
See child.

PERSON: An individual or a corporation, firm, partnership, association or business entity.

SAFE: Having no defect in design, materials, workmanship, method of installation or method of normal use which create a hazard to any person or property.

SECTION V: APPLICATION, ISSUANCE OF LICENSE. In the absence of a provision to the contrary, applications for business licenses shall be made to the city clerk. Forms shall be supplied by the clerk. No license shall be issued until all appropriate fees required by ordinance have been paid. If all required information is supplied, the required fees have been paid and it does not appear that any applicable state law or city ordinances will be violated by the operation of the business, the license shall be issued. The city clerk or other person responsible for processing license applications shall provide assistance in filling out license application forms to any person asking for assistance.

SECTION VI: RECORDS ON COMPUTERS. Nothing in any city ordinance shall be deemed to prohibit the city clerk from using computers to organize information concerning licenses, or to store or process such information. The clerk shall, however, have at least one written record, on paper, of each license application and of each license issued, organized in such a way that, if necessary, a manual search could retrieve information by the names of licensees.

SECTION VII: ADMINISTRATIVE APPEALS. Any person aggrieved by any decision relating to the issuance of a license may file an administrative appeal in the manner provided by ordinance.

SECTION VIII: LICENSE YEAR. Except where otherwise specifically provided in connection with a business, the license year shall run from January 1st until December 31st of the same year. No person, firm or corporation may continue to operate a business after the expiration of the license unless an application has been made for a new license and a new license has been issued.

SECTION IX: LICENSE FOR LESS THAN A YEAR. If a business or operation is started after the middle of the license year, the fee for the license shall be one-half of the annual fee, in the absence of a specific provision to the contrary.

SECTION X: PAYMENT REQUIRED. No person shall operate any business for which a license fee is established by this ordinance until and unless the license fee has been paid on behalf of that business. No business license shall be issued until after the payment of the fee required by this ordinance. No license shall be issued until any applicable investigation fee or processing fee has been paid. All license fees, investigation fees and processing fees shall be paid in to the city treasurer. To the extent permitted by the budget, investigation fees and processing fees may be spent on behalf of the offices or departments actually making the investigations or processing the applications in question.

SECTION XI: NUMBERS OF LICENSES. In the absence of a specific provision to the contrary, no ordinance is to be interpreted as limiting the number of licenses that may be issued or as limiting the number of business enterprises of any particular kind that may be operated in the city. No city officer or employee may refuse to issue a license because of the officer or employee's belief that there are enough of a particular type of business in the city already.

SECTION XII: FIRE EXTINGUISHERS. Each business shall have at least one fire extinguisher on the premises. This is required not only for fires that may originate in the business but also for use for any nearby fire in a vehicle or other place. All such fire extinguishers shall be kept charged and ready to use, in an accessible location known to all employees on the premises.

SECTION XIII: INSPECTIONS. Any business in the city may be inspected by city officers and employees authorized to enforce provisions of ordinances relating to that business. In the absence of an emergency and in the absence of sound reasons whereby an inspection cannot be made during regular business hours, inspections shall be made during normal business hours. Immediately upon arriving at a place of business for the purpose of making an inspection, the city officer or employee making the inspection shall identify himself or herself and shall state that the purpose of the visit is to make an inspection. No person having control of any business premises shall refuse to permit a city officer or employee to enter for the purpose of making an inspection. If entry is refused, the city officer or employee shall leave and seek a search warrant or other appropriate court order, to gain entry.

SECTION XIV: SWORN STATEMENTS. Wherever any city ordinance requires a "sworn" statement or application relating to any business, the person making the statement may make the statement either under oath or under affirmation to tell the truth.

SECTION XV: ALTERNATIVE METHODS. When any city ordinance requires a business to use a particular procedure or material for health or safety reasons, an alternative procedure may be proposed by the person, firm or corporation operating the business. If the City Clerk finds that the alternative proposal has been proven to provide at least equal safety and at least equal protection to public health as the method or material required by ordinance, the alternative shall be approved. The burden of proof is on the person advocating the alternative. After approval of the alternative, other persons in the same business may continue to use the method authorized by the ordinance or the alternative method, at the option of the person operating the business. The city officer approving the alternative shall report the matter to the governing body of the city, for consideration of amendments to the ordinance. Any person aggrieved by a refusal to approve an alternative method or material may call the matter to the attention of the governing body of the city and request an amendment to the ordinance.

SECTION XVI: DUTY TO ISSUE LICENSE. No city ordinance relating to business licenses shall be interpreted as granting or attempting to grant to any city officer or employee any discretionary authority to issue a license or to refuse to issue a business license. Licenses shall be issued to each applicant complying with all applicable state laws and city ordinances, and licenses shall be refused for any applicant failing to comply with all such applicable laws and ordinances.

SECTION XVII: FAKE REPAIRS PROHIBITED. No person doing business anywhere in the city shall charge for any repair or maintenance work on any vehicle or other device or thing, unless such repair or maintenance work has in fact been done.

SECTION XVIII: PENALTY. Any person, firm or corporation violating any provision of this ordinance, or of any ordinance relating to licensing where no other penalty is provided, shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense. Any person violating any such provision may in addition to a fine or in lieu of a fine be imprisoned for not less than six months. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION XIX: SEVERABILITY. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

SECTION XX: This ordinance shall take effect and be in full force and effect from and after its passage, approval and due publication as provided by law.

SECTION XXI: Ordinance No. 283 and Ordinance No. 637 of the City of Rexburg, Idaho, be, and the same are hereby repealed; and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 15th day of August, 1990.

Nile L. Boyle, Mayor

(SEAL)

ATTEST:

Rose Bagley, City Clerk

AMENDED BY ORD. 745 AND REPEALED BY ORD. 1029