

ORDINANCE NO. 92

AN ORDINANCE IMPOSING A BUSINESS TAX; PROVIDING DEFINITIONS, ADMINISTRATION OF COLLECTION OF TAX, REMEDIES FOR NON-PAYMENT, AND PENALTIES THEREFORE; REPEALING ALL ORDINANCES OR PORTIONS THEREOF IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; DECLARING AN EMERGENCY; AND, OTHER MATTERS PERTAINING THERETO.

The city of Gaston does ordain as follows:

SECTION I. Purpose and Scope. The business tax imposed by this ordinance is for revenue purposes only. The tax shall be in addition to and not in lieu of any other license or permit fees, charge or tax required under any other ordinance of the City. This ordinance shall not be construed to constitute a regulation of any business activity, or a permit to engage in any activity otherwise prohibited by law, or a waiver of any regulatory licensing requirement imposed by any other ordinance of this City.

SECTION II. Definitions. The following words and phrases, except where the context clearly indicates a different meaning, shall mean:

- (a) **Apartment house.** A building, portion of a building, or group of buildings on a parcel of land within the City containing two or more dwelling units which are rented, leased, let or made available for sleeping or living purposes; provided, however, a building containing two dwelling units shall not be deemed an "apartment house" within the provisions of this ordinance if the owner of the building occupies one of the dwelling units. The term "apartment house" shall include a hotel or motel, automobile or tourist court, rooming or lodging house, and mobile home or trailer park. In the case of mobile homes or trailer parks, the term "dwelling unit" shall mean space or stall.
- (b) **Commercial Building Rental.** A building, portion of a building, or a group of buildings on a parcel of land within the City containing 2 or more businesses; provided, however, a building or portion of a building containing 2 businesses shall not be deemed a "commercial building rental" if the owner of such building conducts a business in a portion of such building.
- (c) **Business.** An enterprise, establishment, store, shop, activity, profession or undertaking of any nature conducted either directly or indirectly for private profit or benefit. the term "business" shall include the ownership, management or operation of an apartment house.
- (d) **City Council.** City Manager or his designate.
- (e) **Doing, engaging in, or transacting business.** Any act or series of acts performed in the course of pursuit of a business activity.
- (f) **Person.** All individual, partnership, association, firm, or corporation.

SECTION III. Imposition of Tax.

- (1) No person shall establish, maintain, operate, engage in, or conduct or carry on any business within the City without first having paid the business tax as computed under Section V.
- (2) It is the intention of this ordinance to impose the business tax upon the owner, partner, or operator of the business and not upon a person whose income consists of a salary or wage paid to such person by the owner, partner, operator, or employer. However, the employees, agents, or representatives of a person who has no regular place of business within the City, but engages in business within the City, shall be personally responsible for the compliance of their principals and of the businesses they represent with this ordinance.

SECTION IV. Multiple Businesses or Premises.

- (1) If a person is engaged in doing business at more than one establishment, branch or location, each such establishment, branch, or location shall be deemed a separate business and each such business shall be subject to the business tax.
- (2) If two or more related businesses are carried on in the same premises by the same person, it shall be sufficient if the business tax is paid in the name of the business to which the premises are primarily appropriated and based upon the total number of individuals on the whole premises; provided, however, that any business activity leased, under concession to, or owned wholly or in part by a different person or persons on the same premises shall be separately taxed. In determining whether different activities on the same premises are related to the primary use within the meaning of this subsection, normal and ordinary customs and usages of business shall be considered.

SECTION V. Basis and Rate.

- (1) Except as provided in subsection (2) and (3), the business tax imposed by this ordinance shall be paid on the basis of the following annual tax schedule:

(a) Resident Business Tax:

<u>Number of Individuals</u>	<u>Tax</u>
1 - 2	\$25
3 - 5	\$40
6 - 10	\$55
11 - 25	\$70
26 - 50	\$85
51 & Over	\$100

(b) Apartment House and Commercial Building, Rental Business Tax:

<u>Number of Apartment Dwelling Units or Businesses Located in a Commercial Building</u>	<u>Tax</u>
1 - 2	\$25
3 - 5	\$40
6 - 10	\$55
11 - 25	\$70
26 - 50	\$85
51 - Over	\$100

Notwithstanding the foregoing computation of tax, the tax for mobil home and trailer parks shall be the same as the tax in (1) (a) above for each space or pad occupied or available for occupancy. For computation and determination of the tax, a space or pad shall be equivalent to an individual.

- (2) The annual tax for an apartment house shall be that tax established in Subsection (1) (b) above for each dwelling unit of occupied or available for occupancy; provided, however, an owner-occupied dwelling unit shall not be included in the computation of tax.
- (3) A person not operating from a regular place of business in the City shall pay a tax equal to 150% of the amount computed under Subsection (1) (a) above.
- (4)
 - (a) For purposes of this section, the "number of individuals" shall mean the average number of officers, proprietors, partners and associates engaged in the taxable business as well as its employees. The monthly average shall be computed from the twelve (12) months period preceding the business tax year or such portion thereof as such business has existed. A business that has individuals employed on a part-time basis shall have its business tax computed by prorating the total number of part-time hours worked as a ratio of the regular work period for the particular business when figuring the monthly average. Fractional numbers of one-half or over shall be considered as the next highest number. Where, during any month, one individual has been replaced by another, only one individual shall be counted in determining the monthly average.
 - (b) Individuals employed by a business who work entirely outside the City shall not be counted. If a business has its principal place of business outside the City of Gaston, then only those individuals who are actively engaged in doing business within the City shall be counted.
 - (c) A business beginning after the start of the tax year shall have its business tax computed upon the number of officers, proprietors, partners, associates and employees estimated to be engaged or employed for the business during the remaining portion of the tax year.

- (a) Adopt reasonable rules and regulations relating to any matter pertaining to the administration of this ordinance.
 - (b) Prepare, adopt, and make available to the taxpayer all forms necessary for compliance with this ordinance.
 - (c) Examine the books, papers and records of any person subject to the tax at any reasonable time for the purpose of determining compliance with this ordinance.
- (2) No person shall violate or fail to comply with any rule or regulation adopted by the City Council; refuse or hinder the examination of books, papers and records; or willfully make any false or misleading statement to the City Council regarding the computation of the amount of business tax due and payable under this ordinance.
 - (3) The City Council shall keep all information furnished or secured under the authority of this ordinance in strict confidence. Such information shall not be subject to public inspection and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration and enforcement of this ordinance.

SECTION X. Remedies for Nonpayment.

- (1) The amount of any unpaid business tax, including delinquency charges, shall constitute a debt due the City. The City attorney may collect the amount due by an appropriate means, including the institution of an action or suit in the name of the City against the person liable therefor in any court of competent jurisdiction.
- (2) No civil judgment, or action taken by the City Attorney under this section shall bar or prevent any prosecution in the municipal court for a violation of this ordinance.

SECTION XI. Penalties.

- (1) A violation of this ordinance shall be punishable by a fine of not more than \$200.00.
- (2) Each violation of a separate provision of this ordinance shall constitute a separate offense, and each day that a violation of this ordinance is committed or permitted to continue shall constitute a separate offense.
- (3) The conviction of any person for violation of this ordinance shall not act to relieve such person from payment of any unpaid business tax, including delinquent charges, for which such person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City under Section 10.
- (4) In the event a provision of this ordinance is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

SECTION VI. Tax Year & Payment.

- (1) The business tax year shall be ~~January~~^{July} 1, to ~~December~~^{June} 31, the first business tax year to begin on January 1, 1977.
- (2) The business tax shall be paid annually in advance of the business tax year. No person, firm, or corporation which has paid a business tax for 1977 shall be liable for a business tax until ~~January~~^{July} 1978. If a person, firm or corporation begins engaging in business after the beginning of the business tax year, (commencing with business tax year 1977), the business tax shall be paid in advance on a prorated basis as of the beginning of the quarterly period during which such activity begins.
- (3) The City Council may, at their discretion, authorize payment of the business tax by a person liable therefore on a quarterly prorated basis.

SECTION VII. Delinquency Charge.

- (1) Excepting for the payment of business tax as set forth in Section 6 (2) above, the business tax shall be deemed delinquent if not paid by July 1, of the applicable business tax year. If a person begins engaging in business after the start of the business tax year, the business tax shall be deemed delinquent if the tax is not paid within 30 days after commencement of the business activity.
- (2) Whenever the business tax is not paid on or before the delinquency date, a delinquency charge equal to 20 percent of the original business tax due and payable shall be added for each 30-day period, or fraction thereof, during which the business tax and any accumulated delinquency charges remain unpaid. The total amount of the delinquency charge for any business tax year shall not exceed 100 percent of the business tax due and payable for such year.
- (3) The date that the business tax is received by the City or the date of the postmark if remittance is made by mail, shall be used in determining when the business tax is paid.

SECTION VIII. Issuance and Display of Receipt. Upon payment of the business tax, a person shall be issued a receipt by the City for such payment. The receipt shall be kept posted in a conspicuous place on the business premises at all times. If there is no regular place of business within the City, the receipt shall be in the possession of a representative of the business present within the City at all times during which business is being transacted by any employee, agent, or representative within the City.

SECTION IX. Administration.

- (1) The City Council shall be responsible for the administration of this ordinance. They may:

SECTION XII. Effect of Invalidity in Part. If any clause, sentence, paragraph, subsection, section or other parts of this ordinance or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this ordinance or the application of such part held invalid to any other person or circumstances, but shall be confined in its operation to the part thereof directly involved in such holding or to the persons or circumstances therein involved.

SECTION XIII. Repeal. All ordinances or portions thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION XIV. Savings Clause. The repeal of any ordinance by Section 13 shall not preclude any action or prosecution against any person who violated the ordinance prior to the effective date of this ordinance.

SECTION XV. Emergency Clause. In order to provide for the uniform administration of this ordinance within the City and thereby provide for revenues to partially pay for greater municipal services resulting from business activities within the City, it is necessary that the terms and provisions of this ordinance become effective immediately; therefore, an emergency is hereby declared to exist and this ordinance shall be effective upon its adoption by the Council and execution by the Mayor under the provisions of the Charter of the City.

INTRODUCED AND ADOPTED THIS 7th DAY OF July, 1977.

CITY OF GASTON, OREGON

by

Robert L. Merrill
Mayor

ATTEST:

by

Marilyn Begeh
Recorder