

ORDINANCE NO. 1989

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 5.08, BUSINESS TAXES
GENERALLY**

WHEREAS, the City Council finds that the city's business tax regulations periodically require review and updating; and

WHEREAS, the business tax regulations have not been updated since 1999; and

WHEREAS, the City Council finds that the business tax fees require adjustment;
and

WHEREAS, the City Council finds that the code requires adjustment to clarify which businesses are required to pay a tax; and

WHEREAS, the City Council finds that the rental of one or two single family residences owned by the same individuals should be excluded from the requirements of paying a business tax;

**NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS
FOLLOWS:**

Section 1. Section 5.08.010, Purpose, of the Milwaukie Municipal Code is amended to read as follows:

5.08.010 Purpose. The business taxes imposed by this chapter are for revenue purposes only. The fees shall be in addition to and not in lieu of any other license, permit fee, charge or tax required under any other ordinance of the city

Section 2. Section 5.08.020, Definitions, of the Milwaukie Municipal Code is amended to read as follows:

5.08.020 Definitions. The following words or phrases, except where the context clearly indicates a different meaning, shall be defined as provided in this section:

A. "Business" means an enterprise, establishment, store, shop, activity, profession, management company or undertaking of any nature conducted directly or indirectly for private profit or benefit. Peddlers and solicitors are specifically included in this definition.

B. "City" means the city of Milwaukie, Oregon.

C. "City manager" means the city manager or designee.

D. "Doing, engaging in or transacting business" means any act or series of acts performed in the course of the pursuit of a business activity.

E. "Nonprofit organization" means a religious, philanthropic, patriotic and/or charitable organization. An organization shall be considered to be nonprofit if it meets the tests of a tax-exempt organization as specified by the Internal Revenue Service.

F. "Person" means and includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or 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. "Rental property" means a building, portion of building, or group of buildings within the city which are rented, leased or let for any purpose, including but not limited to dwelling or business purposes. Rental property includes, but is not limited to, a hotel or motel, automobile or tourist court, rooming or lodging house, mobile home or trailer park, private residence, office or warehouse.

Section 3. 5.08.030. Imposed. of the Milwaukie Municipal Code is amended to read as follows:

5.08.030 Imposed.

A No person shall maintain, operate, engage in, conduct, or carry on any business within the city without first having paid the business tax as established by this chapter.

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

1. All businesses shall pay an annual fee of one hundred-ten dollars (\$110)
2. The first year rate for businesses starting after July 1 will be fifty-five dollars (\$55)
3. An additional rate of \$5 will be assessed on each FTE employee
4. The fee for temporary businesses (with a duration of two (2) weeks or less) shall be twenty-five dollars (\$25).

C. Revisions to the ordinance fees shall be set as part of the City's Fee and Charges Resolution.

D. As used in subsection B of this section, "FTE" means "full-time equivalent employee." Each business taxpayer must pay the FTE amount in addition to the applicable base rate. The number of FTEs for which payment is required is based on the number of full-time equivalent employees as of January 1 for full-year taxpayers, and on the first day of business for other taxpayers. No additional payments or refunds are applied for changes in the number of employees during the tax year.

E. A penalty of ten percent (10%) of the base fee shall be paid for each calendar month, or fraction thereof, in which the tax is due and unpaid.

Section 4. Section 5.08.040, Multiple businesses or premises, of the Milwaukie Municipal Code is amended to read as follows:

5.08.040 Multiple businesses or premises If a person is engaged or doing business at more than one establishment, branch or location this specifically includes but is not limited to rental houses, apartment complexes, commercial business complexes and retail shopping centers, each such establishment, branch or location shall be deemed a separate business and each such business shall be subject to the business tax. An owner of one or two single family residences that are offered for rent is not doing, engaging in or transacting business and not subject to a business tax. If two (2) or more businesses are carried on at the same location each shall be required to pay a separate business tax, except in situations where it can be shown where the individual businesses are in fact one (1) business. In determining whether different activities at the same location are in fact one business, normal and ordinary customs and usages of business shall be considered.

Section 5. 5.08.110, Exclusions, is amended by adding new subsection (J) as follows:

J. An owner who offers for rent not more than two (2) single family residences.

Read the first time on 11/18/08, and moved to second reading by 4-0 vote of the City Council.

Read the second time and adopted by the City Council on 11/18/08

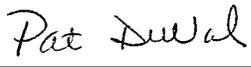
Signed by the Council President on 11/18/08



Joe Loomis, Council President

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC



Pat DuVal, City Recorder



City Attorney