

ORDINANCE

01-O- 127

AN ORDINANCE OF THE CITY OF WAUKEGAN, ILLINOIS, MAKING AMENDMENTS TO THE GENERAL BUSINESS LICENSE, APPLICABLE TO ALL BUSINESSES IN THE CITY OF WAUKEGAN NOT OTHERWISE REQUIRED TO MAINTAIN A LICENSE, EXCEPTING THOSE BUSINESSES WHICH ARE EXEMPT FROM LICENSING BY LAW, AND INCLUDING RENTAL HOUSING

WHEREAS, the City of Waukegan is a home-rule unit of the State of Illinois, and as such has those powers pursuant to the Constitution of the State of Illinois which are not specifically reserved to the State itself; and

WHEREAS, the City Council of the City of Waukegan desires to make certain amendments to the General Business License, which is in effect in the City, to require all businesses operating within the City to obtain such a license, unless such business is exempt from licensing by State law; and

WHEREAS, the City Council wishes to continue the requirement that among those businesses which are required to be licensed shall be all rental housing properties which contain three or more units, and all non-owner-occupied rental properties, and further the City Council wishes to institute an inspection requirement for all such properties as a prerequisite to obtaining a General Business License; and

WHEREAS, the City Council wishes to ensure that all businesses operating in the City which are not currently licensed by the City Collector and Licensing Office, which are not otherwise exempt as above, be now licensed as provided herein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Waukegan, as follows:

Section 1: Chapter 14 of the City Code of the City of Waukegan is hereby amended as follows:

Sec. 14 – 1. Licenses – Required.

All persons who conduct, engage in, maintain, operate, carry on, or manage a business or occupation for which a license is not required under any other provisions of this code, other than those businesses or occupations which are exempt from city licensing pursuant to law, shall be required to apply for and obtain a General Business License from the City Collector and Licensing Office for such business or occupation, prior to commencing operation of such business or occupation in the City of Waukegan. The license fee for said license shall be \$50.00 per calendar year for each

business having a total of twenty-five (25) employees or less; \$100.00 per calendar year for each business having a total of twenty-five (25) up to one hundred (100) employees; and \$150.00 per calendar year for each business having a total of greater than one hundred (100) employees. Businesses listed in Section 14-632 herein shall pay those fees specifically set forth in that Section. The license fee for General Business Licenses for businesses engaged in rental housing shall be as set forth in Section 14-4(b) of this ordinance.

Sec. 14-2. Same – Application.

All businesses or occupations licensed hereunder or under any other provision of this Code shall provide the following information to the City Collector and Licensing Office: (1) The names of the owners, general partners and officers of the business or occupation, where applicable; (2) the addresses of all such business or occupation located within the City; (3) a detailed and comprehensive description of such business or occupation; (4) notification of an emergency contact, including name and 24-hour telephone number, who is available to handle emergencies at the business location; (5) evidence of a current year occupancy permit for the premises in which the business will take place, or pending application for same, issued by or applied for with the Waukegan Building Department under Sec. 118.1 of the BOCA National Building Code, as adopted by the City of Waukegan, and no General Business License will be issued until such a Occupancy Permit has been obtained by the Applicant; (6) in the case of a rental housing business, such other items as set forth in Section 14-4 of this ordinance; (7) any other information as may be required by the Licensing Official for the protection of the public health, safety or welfare of the patrons of such businesses or occupations, their employees and the general public, including those items as are required by Section 14-3 below. Further no person shall engage in any trade, profession, business or privilege for which a license is required by any provision of this Code without first obtaining such license from the City in the manner provided in this Chapter.

As set forth in Section 14-13 herein, home occupations as those are defined in the Zoning Code, except for home day care businesses under Section 4-4.3(4)(d)(4), shall not be required to obtain an occupancy permit. Home day care businesses shall be required to obtain an occupancy permit.

Sec. 14-3. Same – Qualifications of Applicants.

The general standards herein set out relative to the qualifications of every applicant for a City license shall be considered and applied by the Licensing Official. Such standards shall include the following:

- (a). *Penal history.* The Applicant's criminal conviction history shall be considered.

- (b) *License history.* The Applicant's license history, whether such person, in previously operating in this or another state under any license has had such license revoked or suspended, the reasons therefor.
- (c) *No obligations to City.* The Applicant shall not be in default under the provisions of this article or indebted or obligated in any manner to the City except for current taxes and/or current water bill.
- (d) *Compliance with zoning, building and health regulations.* The Applicant shall furnish such proof as may be required to the effect that the proposed license activity, including the premises in which the activity is to be carried out (see requirement of occupancy certificate in Section 14-2 above), is not in violation of City Zoning, Building, or other regulations. In addition, the premises and proposed license activity must comply with any other applicable State or Federal requirements.

Sec. 14-4. Rental Unit Business License.

- (a) All owners of rental housing properties in the City, except those properties of two units or less in which the owner resides, shall be required to be licensed by the City Collector and Licensing Official.

- (b) The fee schedule for said units on a per building basis shall be as follows:

1-2 units	-- \$25.00
3-10 units	-- \$10.00 per unit
Over 10 units	-- \$100

- (c) Owners of such properties shall be required to provide all the information required in Section 14-2 above for General Business Licenses, and shall in addition provide the following information:
 - i. Total number of properties owned by the Applicant, and number of units at each premises, whether the units are occupied or vacant at the time of license application, and the Applicant shall provide a copy of the current City of Waukegan Zoning Letter or Certificate for each premises, or evidence that the individual has owned the premises continuously since prior to the enactment of the City of Waukegan Zoning Code in December, 1987.
 - ii. In addition, the Applicant shall, at the time of license application, provide the City with a report from a licensed home inspector who is registered with the City of Waukegan showing the property has no outstanding code violations or other areas of

concern or failure. Such report shall be current at the time of initial license application, and a new current report shall be provided to the City every third year with the renewal application.

Sec. 14-5. Renewal Licenses; Suspension and Revocation for Non-payment.

Existing licenses in good standing are able to be renewed annually. Prior to the expiration of each license on December 31 of the calendar year, the Applicant shall submit an application for license renewal, which shall include all the information required in Section 14-2 above, or a statement indicating that such information is still current. For residential rental properties, a new required inspection report (See Section 14-4(c)(2) above) shall be submitted every three (3) years prior to the expiration of the existing license. Renewal license fees shall be paid at the time of the renewal application, in the same amounts as the initial license fee. Renewal fees paid after December 31 of the calendar year shall be considered delinquent, and the existing license shall be suspended until such time as a renewal application is made and the fee, plus a 25 percent (25%) late fee, is paid. Any such suspension shall only remain in effect until February 1 of each calendar year, at which time if the renewal application, renewal fee and late fee are not received by the office of the City Collector and License Official, the license shall be revoked. Such revocation shall be automatic, and shall not be subject to the hearing process set out in Section 14-10 and 14-11 below. Individuals or companies whose licenses are revoked for nonpayment of fees and penalties shall be so notified by the License Official, and shall immediately cease operating under the revoked license. The provisions of Section 14-7(c) below regarding termination of water service shall also apply in those instances where licenses are revoked for non-payment of fees and penalties, except in cases of buildings which are equipped with an automatic fire sprinkler system. In such cases, water service will not be terminated, but an additional penalty of \$500 per day shall be imposed on businesses whose licenses are revoked for non-payment of fees and penalties.

Sec. 14-6. Bonds and Insurance.

All bonds required by any provision of this Code shall be executed by two sureties, or a surety company, and be approved as to form by the Corporation Counsel. Where policies of insurance are required, such policies shall be approved as to substance and form by the Corporation Counsel. Satisfactory evidence of coverage by bond or insurance shall be filed with the City Collector and License Official before the license is issued.

Sec. 14.7. Conditions Precedent to Issuance.

- (a) Where the approval of any City Officer or State or Federal officer or entity is required prior to the issuance of any license required by any provision of this Code, such approval must be presented to the City

Collector and License Official before any license is issued. When all conditions for issuing a license are fulfilled, the License Official shall issue the license.

- (b) No license shall be issued if the conduct of the licensed activity will be contrary to the public health, safety or welfare of the public.
- (c) Businesses which continue to operate in violation of the provisions of this ordinance shall be subject to water service termination, pursuant to procedures as set forth in the ordinances of the City of Waukegan having to do with water service, except for those businesses, as set forth in Sec. 14-5 above, which have an automatic fire sprinkler system, in addition to any and all remedies available to the City under the provisions of the City Code, the Statutes of the State of Illinois or other applicable law and regulations, including, but not limited to, the ability of the License Official, acting in conjunction with the Police Department, to arrest any and all individuals who operate a business in the City of Waukegan without a current business license, and charging them with a misdemeanor under Sec. 14-14 herein. Such business shall be immediately closed down and not reopened until such time as all laws and regulations are complied with, including all the requirements of this Article.

Sec. 14-8. Exhibition of License on Premises.

Every licensee under provisions of this Code shall carry his license upon his person at all times when engaged in the trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is conducted at a fixed place or establishment, the license shall be exhibited at all times in a conspicuous place at the business location. The Licensee shall produce the license upon demand of any police officer or person representing the City of Waukegan.

Sec. 14-9. No Transfer of License.

Unless otherwise provided, no license required by any provision of this Code shall be transferable.

Sec. 14-10. Suspension or Revocation of Licenses.

Any license required by any provision of this Code that is issued by the City may be suspended or revoked by the City for any of the following causes:

- (a) Fraud, misrepresentation or incorrect statement contained in the application for license, or made in carrying on the licensed activity.
- (b) Conviction of any crime, misdemeanor, or the violation of any ordinance by an individual licensee or the officers and/or shareholders and agents of a corporate licensee or the partners of a partnership license.
- (c) Conducting such licensed activity in such manner as to constitute a breach of the peace, or a menace to the health, safety, or welfare of the public, or a disturbance of the peace and comfort of the residents of the City, or upon recommendation of any official charged with approving health requirements on the licensed premises.
- (d) Expiration or cancellation of any required bond or insurance, and/or expiration or cancellation of the City of Waukegan occupancy permit.
- (e) Actions unauthorized or beyond the scope of the license granted.
- (f) Violation of provisions of this Code applicable to the trade, profession, business or privilege, for which the license has been granted, or regulations or laws of the state so applicable.
- (g) Failure to continuously comply with all conditions required as precedent to the approval of the license.

Sec. 14-11. Same—Hearings re denials, suspensions, revocations, violations of Code.

- (a) Upon determination by the License Official to pursue investigation of possible violations of this Chapter, he or she shall issue a Notice to the Licensee of the charges that sets a date for a hearing on the alleged violations. Within ten (10) days of the issuance of the Notice, a hearing shall be held regarding the alleged violations. Within five (5) days of the conclusion of the hearing, the License Official shall issue his or her decision. If the license is suspended the Licensee may appeal the decision to the City Council. The Licensee must notify the City Clerk within ten (10) days of his notification of the suspension that he or she desires an appeal hearing before the City Council. If the Licensee fails to so notify the City Clerk within ten (10) days, the suspension shall become effective at the date and time (following the expiration of the 10-day appeal period) designated by the License Official.
- (b) In the case of such suspension, the License Official shall serve the Licensee with a written order of suspension, which shall state the

reasons for such suspension. The order shall be effective immediately if personally served, or 48 hours after the same has been deposited in the course of business in the U. S. Mails by certified mail, return receipt requested.

- (c) Immediately upon such order becoming effective, the Licensee shall cease all operations conducted under the authority of any license issued pursuant to this Chapter and shall relinquish his or her license document to the License Official.
- (d) Within five (5) days of the License Official's hearing, he or she shall forward to the City Council a record of the hearing and his or her recommendation of further action. The council shall then determine if such charges merit revocation. If the council desires to begin revocation proceedings, a hearing before the council shall be held, with no less than five (5) days' notice to the suspended Licensee. Within five (5) days following the hearing the suspended Licensee shall be given Notice of the decision, of the City Council, either to revoke the license, set the suspension for a specified number of days, or terminate the suspension, by either personal service or certified mail. The decision of the City Council shall be a final decision, and shall be subject to review under the laws of the State of Illinois governing review of actions of this type.
- (e) If a violation of any of the provisions of this Chapter is found to have occurred, the City Council may assess as costs against the suspended Licensee any administrative expenses, court reporter fees, or any other expenses incurred in the hearing processes, In addition, at the completion of the suspension period of any license, the licensee shall, as a prerequisite to the reactivation of the license, pay to the City Collector a reinstatement fee of 50% of the amount of the annual fee for said license.

Sec. 14-12. Inspection.

The License Official and other City officials may enter upon the premises where any licensed activity is being conducted for the purpose of inspection to ensure compliance with all applicable codes and regulations.

Sec. 14-13. Occupancy Permits for Premises of Exempt Businesses.

All businesses, including those that are otherwise exempt by law from the requirement of obtaining a General Business License, must obtain an occupancy permit from the City of Waukegan Building Department for the premises in which the business will take place. Included in this requirement are home day care businesses operated as home occupations

under Section 4-4.3(4)(d)(4) of the Zoning Code of the City of Waukegan. This requirement shall not apply to any other home occupations operated under the Zoning Code. Those businesses which are exempt by law from the General Business License requirements shall have a period of one year from the date of passage of this Ordinance to obtain the occupancy certificate required by this Ordinance. The fee for obtaining this Occupancy-only Permit shall be \$50.00.

Sec. 14-14. Operating a business without a license – Misdemeanor.

Pursuant to the provisions of Illinois Consolidated Statutes, Chapter 65, Section 5/1-2-1.1, the operation of a business in the City of Waukegan without a business license when the same is required under the terms of the code of ordinances of the City of Waukegan, including this Chapter, is hereby declared to be a misdemeanor, punishable by incarceration in a penal institution other than the penitentiary not to exceed six (6) months. This penalty shall be in addition to any and all other penalties and fines provided by law.

Sec. 14-612. Outdoor sales not permitted by those holding a hawkers or peddlers license.

Under no circumstances may the sale of items under Section 14-606 through 14-611 take place in the out-of-doors. This shall include push-carts, mobile carts, mobile or stationary stands, or other outside sales. This requirement shall not affect the provisions of Section 14-481 herein regarding Mobile Food Vendors.

Section 2. Section 14-15 is hereby deleted.

Section 3. Sections 14--17, 14-18 and 14-19 are hereby removed from this Chapter and placed into Chapter 15 of the City Code regarding Offenses. These sections are hereby renumbered as Sections 15-23, 15-24, and 15-25 respectively.

Section 4. Section 14-153(t) is hereby deleted.

Section 5. Section 14-281(4) is hereby deleted.

Section 6. Section 14-396 is hereby amended to read as follows:

Sec. 14-396. Inspections.

The License Official from time to time shall inspect and examine all places where cigars, cigarettes, and tobacco are licensed to be sold, for the purpose of ascertaining whether the laws of the state and ordinances of the city in relation to the same are being complied with. Any person licensed to sell cigars,

cigarettes, or tobacco upon the demand of such official shall furnish to him or her for inspection samples of cigars, cigarettes, or tobacco sold or offered for sale by him, which such samples may be sent for analysis under the direction of the Licensing Official. A record of such analysis shall be kept in his or her office available for inspection of the public.

Section 7. Section 14-413(a) is hereby amended to read as follows:

Sec. 14-413. Fees.

(a) *Generally.* The annual fee for the license required by this division shall be \$100.00.

Section 8. Sections 14-436 and 14-437 are hereby deleted.

Section 9. Section 14-517 is hereby amended to read as follows:

Sec. 14-517. Garbage containers.

Regulation containers for receiving and holding without leakage all garbage and other waste material shall be provided. Such containers shall conform to all other requirements of the City of Waukegan for containers of this type, and may not be located in any area adjacent to residential properties. All garbage and waste material shall be removed from the premises daily and shall not be allowed to become a nuisance.

Section 10. All other portions of Chapter 14 that are not changed or amended by this Ordinance shall remain in full force and effect.

Section 11. All ordinances or parts of ordinances in conflict herewith are hereby repealed, to the extent of such conflict.

Section 12. This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.



MAYOR DANIEL T. DREW

ATTEST:



WAYNE MOTLEY, City Clerk

Presented and read at a regular meeting of the Waukegan City Council on the 19th day of November, 2001.

Passed and approved at a regular meeting of the Waukegan City Council on the 19th
day of November, 2001.

ROLL CALL: Aldermen Rickerd, Figueroa, Harris, TenPas, Needham,
Hyde & Cunningham

AYES: Aldermen Rickerd, Figueroa, Harris, TenPas, Needham,
Hyde & Cunningham

NAYS: None

ABSENT: Alderman Balen

ABSTAIN: None

ACL/final/11-08-01