INTRO 1-11-21 REF CAW Publ.

Sponsor: Dan Spitale
Councilman at Large

ORDINANCE NO. 9493 21-1

AN ORDINANCE TO REPEAL ORDINANCES 7337, 8036, 8489, 8906, 8907, 8908, 8909, 8910, 8911 ALSO KNOWN AS CHAPTER 119 OF TITLE XI OF THE HAMMOND MUNICIPAL CODE AND ADOPT AND ENACT CHAPTER 109 OF TITLE XI OF THE HAMMOND MUNICPAL CODE RELATING TO BUSINESS LICENSING IN THE CITY

WHEREAS, Indiana Code §36-8-2-10 grants a local government authority to regulate the operation of businesses, crafts, professions, and occupations; and

WHEREAS, the City of Hammond regulates the operation of businesses through an annual licensing process codified in Chapter 119 of Title XI of the Hammond Municipal Code (HMC); and

WHEREAS, Chapter 119 of Title XI of the HMC has not been updated since 2008 (some instances since 1961), and has become outdated and not applicable to many businesses currently operating in the city; and

WHEREAS, to provide clear and concise licensing instructions for Hammond business owners and to create departmental efficiency through the business licensing process, the general business licensing requirements must be revised; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Hammond that Chapter 119 of Title XI of the HMC be repealed and Chapter 109 of Title XI of the HMC be adopted as follows:

CHAPTER 109: GENERAL BUSINESS LICENSES

109.01 All licenses subject to city ordinances

109.02 Authority to issue licenses; records to be kept

109.03 Application for license required; fees

109.04 Term of license; expiration date

109.05 Transfer of license prohibited

109.06 License to be posted

109.07 Change of business location

109.08 Refusing to show upon request

109.09 Rebates or refunds of city licenses prohibited

109.10 Numbering and registering

109.11 Issuance

109.12 Denial, suspension, or revocation of license

109.13 Appeal of denial, suspension, or revocation of license

109.14 Inspections of licensed premises

109.15 Exceptions

Statutory reference:

Authority of city to regulate, tax, and license businesses and professions, see I.C. 36-8-2-10

§ 109.01 ALL LICENSES SUBJECT TO CITY ORDINANCES.

All licenses shall be subject to this code and the city ordinances which may be in force at the time of the issuing thereof or which may subsequently be passed by the Common Council of the city.

(Prior Code, § 119.01)

§ 109.02 AUTHORITY TO ISSUE LICENSES; RECORDS TO BE KEPT.

(A) All licenses authorized to be issued and required to be procured by this code and other ordinances of the city shall be issued by the City Controller.

(B) The City Controller may request of a party seeking a license sufficient information to determine the identity of the requesting party and other information sufficient to determine the legality of the request for license. The Controller shall charge a fee for the license and renewal (including a processing fee) as set by ordinance. The Controller shall also charge an additional late fee. A receipt shall be issued for any license issued. Such information will be kept as a record of the Controller's Office.

(Prior Code, § 119.02) (Am. Ord. 8908, passed 2-12-2008) Penalty, see § 10.99

§ 109.03 APPLICATION FOR LICENSE REQUIRED; FEES

(A) No person shall operate or maintain a business establishment within the city without first obtaining a general business license therefore as provided in this chapter. Any business establishment not otherwise covered by a separate licensing provision shall require this general business license.

(B) Written application shall be made to the City Controller for any city-issued license and a renewal application shall be required prior to the expiration of any license so issued.

(C) The General Business License application shall state at a minimum the following information:

1. The applicant's name, home address, and existing or proposed business address;
2. For corporate entities, the company name, the registered agent, and local corporate contact;
3. The hours of operation for the proposed business establishment; and
4. Any other information the City Controller shall find reasonably necessary to effectuate the purpose of this chapter.

(D) A license shall be issued by the City Controller to a successful applicant under this chapter after payment of a license fee of $100 and a processing fee of $5. The license shall be for a term of 1 year commencing July 1 and expiring June 30 of the following year and must be renewed annually by the business through a renewal application . A separate license shall be required and a separate fee paid for each business establishment or location operated and maintained or to be operated and maintained by any individual or company. A business establishment that fails to renew a license by July 31 each year shall be required to pay a $200 late fee in addition to the annual $100 license renewal fee. Regardless of the date issued, the license shall expire on June 30 of each year.

(Prior Code, § 119.03) (Am. Ord. 8906, passed 2-12-2008) (Prior Code, § 124.02) (Ord. 4326, passed 5-23-1977; Am. Ord. 8590, passed 8-24-2004) Penalty, see § 10.99

§ 109.04 ISSUANCE

(A) The City Controller shall issue a license under this chapter when he or she finds compliance with the following rules and regulations:

(1) The applicant has completed the application process and requirements;

(2) There is no apparent danger to public health, welfare, or safety; and

(3) The requirements of this chapter and all other governing laws and ordinances have been met.

§ 109.05 TERM OF LICENSE; EXPIRATION DATE.

No license shall be granted for a shorter period, or a longer period, than 1 year, unless specifically stated by ordinance.

(Prior Code, § 119.04) (Am. Ord. 8907, passed 2-12-2008) Penalty, see § 10.99

§ 109.06 TRANSFER OF LICENSE PROHIBITED.

(A) No license granted under this chapter or any other city ordinances shall be sold, assigned, or transferred.

(B) No person or entity whose application was denied, suspended, or revoked shall be permitted to operate under the license of another person or entity.

(C) It shall be unlawful for any person or entity to fraudulently procure a license or knowingly provide false information for purposes of obtaining a license.

(Prior Code, § 119.05) (Am. Ord. 8911, passed 2-11-2008) Penalty, see § 10.99

§ 109.07 LICENSE TO BE POSTED.

Every license issued shall be posted during the period for which the license was issued, and shall remain posted at all times in a conspicuous place, so that the license may be easily seen. When the license has expired, it shall be removed from the place in which it has been posted. No license which is not in force shall be permitted to remain posted.

(Prior Code, § 119.06) Penalty, see § 10.99

§ 109.08 CHANGE OF BUSINESS LOCATION.

(A) If any licensed business establishment shall, before the expiration of the license, change the location of the business establishment, such business establishment shall, within 30 days of location change, file with the City Controller a change of business location form and comply with requirements of said form.

(B) The City Controller shall thereupon issue a new license to that business establishment for the unexpired term of the license, and the existing license shall be surrendered to and cancelled by the City Controller. The licensee shall pay no additional fee for the remainder of the license term.

(Prior Code, § 119.07) Penalty, see § 10.99

§ 109.09 REFUSING TO SHOW UPON REQUEST.

It shall be unlawful for any business establishment having a license to refuse to show or submit the license for inspection, when requested to do so by any authorized representative of the City.

(Prior Code, § 119.08) Penalty, see § 10.99

§ 109.10 REBATES OR REFUNDS OF CITY LICENSES PROHIBITED.

(A) In no event shall any rebate or refund be made of any city license fee or part thereof.

(B) Late fees imposed by ordinance for failure to obtain a license or renew a license in a timely manner may be waived upon a documented showing of good cause to the Board of Publics and Safety; however, late fees previously paid may not be refunded or rebated.

(Prior Code, § 119.09) (Am. Ord. 8910, passed 2-11-2008) Penalty, see § 10.99

§ 109.11 NUMBERING AND REGISTERING.

The City Controller shall number and register consecutively each license issued.

(Prior Code, § 119.10) Penalty, see § 10.99

§ 109.12 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

(A) The City Controller shall deny a license application, deny a renewal of a license, or revoke a license previously issued upon determination that the applicant or licensee:

(1) Is in violation of the zoning restrictions set by ordinance;

(2) Is currently in violation or has had previous violations of city ordinance concerning the premises;

(3) Has permitted a violation of ordinance, state, or federal law upon the premises;

(4) The premises contains current physical or structural defects which present a fire, health, or safety concern; or

(5) Upon a showing of other good cause.

(B) Any business establishment which continues to operate in the city on a denied, suspended, or revoked license shall be in violation of this section.

(Prior Code, § 119.11) (Ord. 8036, passed 12-3-1997; Am. Ord. 8489, passed 4-28-2003; Am. Ord. 8909, passed 2-11-2008) Penalty, see § 10.99

§ 109.13 APPEAL OF DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

(A) In the event that a license is denied, suspended, or revoked, the applicant or licensee shall be given notice of the denial, suspension, or revocation, and the reasons for this action, and shall further be advised of the right to appeal such action to the Board of Public Works and Safety. Such appeal must be made within 10 days of notice of revocation, suspension, or denial. Upon

receipt of notice of appeal, the Board of Public Works and Safety shall hold a hearing within 10 days. The revocation of an existing license shall not take effect until the Board of Public Works and Safety has ruled upon the appeal. If a license is revoked, previously paid license fees shall not be refunded, however, no late fees will accrue during the pendency of the appeal before the Board of Public Works and Safety.

(B) In the event of such an appeal, the following procedures shall govern, except to the extent a specific licensing ordinance provides otherwise:

(1) The applicant or licensee shall make the request for an appeal in writing to the secretary to the Board of Public Works and Safety and such notice is effective as of the date of receipt by the secretary; and

(2) Unless an extension is agreed upon by all parties, the Board of Public Works and Safety shall rule on the appeal within 10 days of its submission to the Board of Public Works and Safety and shall notify the applicant or licensee in writing of its ruling by regular and certified mail. The denial, suspension, or revocation shall be effective 30 days after the date of the decision of the Board of Public Works and Safety.

(Prior Code, § 119.13) (Ord. 8489, passed 4-28-2003)

§ 109.14 INSPECTIONS OF LICENSED PREMISES.

(A) A licensee shall permit representatives of the city to inspect the areas of its business open to patrons during hours when the premises are open for business, unless another time is agreed.

(B) Except to the extent a specific licensing ordinance expressly permits inspection of areas of a business not open to patrons, any ordinance allowing inspections shall be construed to permit inspections of (1) areas of the business premises open to patrons, and (2) areas not open to patrons only to the extent necessary to enforce compliance with the law.

(Prior Code, § 119.14) (Ord. 8489, passed 4-28-2003)

§ 109.15 EXCEPTIONS.

This chapter shall not apply to any business establishment required to obtain a license under any other existing ordinance as of this date, including but not limited to the following categories:

(A) Adult Entertainment Business Activities (Chapter 128)

(B) Amusement Devices and Places of Amusement (Chapter 112)

(C) Animal Establishments or Shelters, Pet shops, Kennels and Catteries (Chapter 121)

(D) Auctions and Garage Sales (Chapter 113)

(E) Auto Dealers (Chapter 114)

(F) Food and Food Establishments (Chapter 117)

(G) Junk Yards, Pawn brokers; and Secondhand stores (Chapter 118)

(H) Massage Parlors (Chapter 120)

(I) Massage Therapy (§ 121.70)

(J) Motor Vehicle Repossession Agents (§121.59)

(K) Peddlers and Pop-up Vendors (Chapter 122)

(L) Public Garages (Chapter 123)

(M) Retail Establishments (Chapter 124)

(N) Tattoo and Body Piercing Establishments (Chapter 127)

(O) Taxicab and Other Vehicles for Hire (Chapter 125)

(Prior Code, § 124.04) (Ord. 4326, passed 5-23-1977)

THEREFORE, BE IT FURTHER ORDAINED that if any part of this ordinance shall be held invalid by a court of competent jurisdiction, the remainder thereof shall not be affected.

BE IT FURTHER ORDAINED this Ordinance shall be considered as amending or repealing Ordinance Numbers 7337, 8036, 8489, 8906, 8907, 8908, 8909, 8910, and 8911, and if there be any conflict therewith, this ordinance shall take precedence.

BE IT FURTHER ORDAINED by the Common Council, that this Ordinance shall be in full force and effect upon signing by the President of the Common Council and approval by the Mayor, and Publication as provided by law.

ADOPTED AND APPROVED BY the Common Council of the City of Hammond, Indiana this 25TH day of January, 2021

Dave Woerpel, President
Hammond Common Council

Sponsor: Dan Spitale
Councilman at Large

ATTEST: Robert J. Golec

Robert J. Golec, City Clerk

PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor of said City for his approval on the 26TH day of January, 2021.

Robert J. Golec

Robert J. Golec, City Clerk
City of Hammond, Indiana

The foregoing Ordinance No. 9493 consisting of eight (8) typewritten pages, including this page, was APPROVED AND SIGNED BY ME, the undersigned Mayor of the City of Hammond, Indiana on this 26th day of January, 2021.

Thomas M. McDermott, Jr., Mayor
City of Hammond, Indiana

PASSED by the Common Council on the 25TH day of January, 2021 and Approved by the Mayor on the 26th day of January, 2021.

Robert J. Golec

Robert J. Golec, City Clerk
City of Hammond, Indiana