

ORDINANCE NO. 129

AN ORDINANCE RELATING TO, AND PROVIDING FOR, A LICENSE OR OCCUPATION TAX UPON CERTAIN BUSINESSES, OCCUPATIONS, PURSUITS, AND PRIVILEGES: DEFINING OFFENSES AND PROVIDING PENALTIES.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF GIG HARBOR

Section 1. Exercise of Revenue License Power. The provisions of this ordinance shall be deemed an exercise of the power of the Town of Gig Harbor to license ~~for~~ revenue.

Section 2. Definitions: In construing the provisions of this ordinance, save when otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

Gross Income: The value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of the investment of capital in the business engaged in, including rentals, royalties, fees or other emoluments, however designated (excluding receipts or proceeds from the use or sale of real property or any interest therein, and proceeds from the sale of notes, bonds, mortgages, or other evidences of indebtedness, or stocks and the like) and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid, or any expense whatsoever, and without any deduction on account of losses.

Person or Persons: Persons of either sex, firms, co-partnerships, corporations, and other associations of natural persons, whether action by themselves or by servants, agents, or employees.

Taxpayer: Any person liable to the license fee or tax imposed by this ordinance.

Tax Year or Taxable Year: The calendar year or, in lieu thereof, the taxpayer's fiscal year when permission is obtained from the Town Clerk to use the same as the tax period.

Section 3. "Occupation License" Required. After the 1st day of February, 1970, no person shall engage in or carry on any business, occupation, pursuit, or privilege for which a license fee or tax is imposed by this ordinance without having first obtained, and being the holder of, a valid and subsisting license so to do, to be known as an "Occupation License".

Any person engaging in, or carrying on, more than one such business, occupation, pursuit, or privilege shall pay the license tax so imposed upon each of the same.

Any taxpayer who engages in, or carries on, any business subject to tax hereunder without having his "Occupation License" so to do, shall be guilty of a violation of this ordinance for each day during which the business is so engaged in or carried on, and any taxpayer who fails or refuses to pay the license fee or tax or any part thereof on or before the due date shall be deemed to be operating without having his license so to do.

Section 4. License Tax Year. All "Occupation Licenses" shall be for the tax year for which issued and shall expire at the end of such tax year.

Such "Occupation License" and the fee or tax therefor hereby imposed shall be for the calendar year; Provided, however, that if the taxpayer in transacting his business keeps the books reflecting the same for a fiscal year not based on the calendar year he may, with the assent of the Town Clerk, obtain his license for the period of his current fiscal year which shall be deemed his tax year, and pay the fee or tax computed upon his gross income made during his fiscal year (next preceding his tax year) covering his accounting period as shown by the method of keeping the books of the business.

Section 5. Occupations Subject to Tax--Amount. There are hereby levied upon, and shall be collected from, the persons on account of the business activities annual license fees or occupation taxes in the amounts to be determined by the application of the rates against gross income, as follows:

Upon every person engaged in or carrying on a telephone business, electrical power business, water business, and a business for furnishing natural gas, a fee or tax equal to three per cent of the total gross income from such businesses in the Town during his fiscal year next preceding the tax year for which the license is required.

Section 6. Tax Apportioned for Year 1970. For the remainder of the tax year 1970, commencing February 1, 1970, and ending on the last day of December, 1970, the fees or taxes herein imposed shall be apportioned in the ratio of said remainder to full tax year.

Section 7. Exceptions and Deductions. There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed, so much thereof as is derived from business which the Town of Gig Harbor is prohibited from taxing under the constitution or laws of the United States or the constitution or laws of the State of Washington, and any amount paid by the taxpayer to the United States or the State of Washington as excise taxes levied or imposed upon the sale or distribution of property or services.

Section 8. Application or Return for License. On or before the 1st day of February, 1970, and thereafter on or before the first day of each tax year, every taxpayer shall apply to the Town Clerk for an "Occupation License" upon blanks or forms of return to be prepared and provided by him requesting such information required and shall sign the same and by affidavit at the foot thereof shall swear or affirm that the information therein given is full and true and that he knows the same to be so.

Every such application or return shall be accompanied by a remittance by bank draft, certified check, cashier's check, or money order, payable to the Town Treasurer, or in cash, in the amount of the tax or fee or installment thereof required by the provisions hereof.

If the applicant be a partnership, the application or return must be made by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, co-partnership, or non-resident individual; by the resident agent or local manager of said corporation, co-partnership, or individual.

Section 9. Monthly and Quarterly Payment of Tax. Where the amount of the license fee or tax is based upon gross income, the taxpayer may pay his fee or tax in equal monthly installments during the life of his license, each such installment to be paid on or before the 10th day of the month. In all other cases the taxpayer may pay his fee or tax in equal installments during the life of his license, each such installment to be paid on or before the 1st day of February, the 1st day of May, the 1st day of August, and the 1st day of November, respectively.

Section 10. When Tax Based on Current Year--Commencement of Business During Tax Year. Where a business, occupation, or pursuit subject to tax upon gross income has not been carried on for the full calendar or fiscal year next preceding the tax year for which license is required, the license fee or tax shall be paid monthly in installments during the life of the license on or before the 10th day of the month, and shall be based upon the gross income for the month next preceding that in which payment is due. In such cases the taxpayer shall make monthly returns similar to the annual returns provided for herein on or before the 10th day of the month, under oath or affirmation covering the business of the previous month.

In all other cases where a person commences during any tax year to engage in any business, occupation, pursuit, or privilege, he shall be entitled to a license for the remainder of such tax year for the required fee apportioned in the ratio of said remainder to a full tax year.

Section 11. Monthly Payments--License Prerequisite. In any case where the taxpayer pays his license fee or tax monthly he shall nevertheless first procure his "Occupation License" in the manner herein required before commencing or continuing in business.

Section 12. Sale or Transfer of Business. Upon the sale or transfer during any tax year of a business on account of which a fee or tax is hereby required, the purchaser or transferee shall, if the fee or tax has not been paid in full for said year, be responsible for its payment for ~~the~~ portion of said year during which he carries on such business.

Section 13. Taxpayer to Keep Books and Records. It shall be the duty of each taxpayer taxed upon his gross income to keep and enter in a proper book or set of books or records an amount which shall accurately reflect the amount of his gross income, which account shall always be open to the inspection of the Town Clerk, or his duly authorized agent, and from which said officer or his agent may verify the return made by the taxpayer.

Section 14. Clerk to Investigate Returns. If any taxpayer fails to apply for license, to make his return, or if the Clerk is dissatisfied as to the correctness of the statements made in the application or return of any taxpayer, said officer, or his authorized agent, may enter the premises of such taxpayer at any reasonable time for the purpose of inspecting his books or records of account to ascertain the amount of the fee or tax or to determine the correctness of such statements, as the case may be, and may examine any person under oath administered by said officer, or his agent, touching the matters inquired into, or said officer, or his authorized agent, may fix a time and place for an investigation of the correctness of the return and may issue a subpoena to the taxpayer, or any other person, to attend upon each investigation and there testify, under oath administered by said officer, or his agent, in regard to the matters inquired into and may, by subpoena, require him, or any person, to bring with him such books, records, and papers as may be necessary.

Section 15. Over or Underpayment of Tax. If the Town Clerk, upon investigation or upon checking returns finds, that the fee or tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount overpaid by a warrant upon the Current Expense Fund. If the Town Clerk finds that the fee or tax paid is less than required, he shall send a statement to the taxpayer showing the balance due, who shall within three (3) days pay the amount shown thereon.

Section 16. Remedy for Non-payment of Tax. If any taxpayer fails to apply for license, or make his return, or to pay the fee or tax therefor, or any part thereof, within three (3) days after the same shall have become due, the Town Clerk shall ascertain the amount of the fee or tax or installment thereof due and shall notify such taxpayer thereof, who shall be liable therefor in any suit or action by the Town for the collection thereof. The Town Clerk shall also notify the Town Attorney in writing of the name of such delinquent taxpayer and the amount due from him and said officer, shall, with the assistance of the Town Clerk, collect the same by any appropriate means or by suit or action in the name of the Town.

Section 17. Appeals to Town Council. Any taxpayer aggrieved by the amount

of the fee or tax found by the Town Clerk to be required under the provisions of this ordinance, may appeal to the Town Council from such finding by filing a written notice of appeal with the Town Clerk within five (5) days from the time such taxpayer was given notice of such amount. The Clerk shall, as soon as practicable, fix a time and place for the hearing of such appeal, which time shall not be more than twenty (20) days after the filing of the notice of appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the appellant. At such hearing, the taxpayer shall be entitled to be heard and to introduce evidence in his own behalf. The Town Council shall thereupon ascertain the correct amount of the fee or tax by resolution and the Town Clerk shall immediately notify the appellant thereof, which amount, together with costs of the appeal, if appellant is unsuccessful therein, must be paid within three (3) days after such notice is given.

The Mayor may, by subpoena, require the attendance thereof of any person, and may also require him to produce any pertinent books and records. Any person served with such subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the Mayor or acting Mayor as to any matter required of him pertinent to the appeal, and it shall be unlawful for him to fail or refuse so to do.

Section 18. Town Clerk to Make Rules. The Town Clerk shall have the power, and it shall be his duty, from to time, to adopt, publish, and enforce rules and regulations not inconsistent with this ordinance or with law for the purpose of carrying out the provisions thereof, and it shall be unlawful to violate, or fail to comply with, any such rule or regulation.

Section 19. Licenses--Posting--Unlawful Use of. All licenses issued pursuant to the provisions of this ordinance shall be kept posted by the licensee in a conspicuous place in his principal place of business in the Town, or, if there be no such principal place of business, in such conspicuous public place in said Town as the licensee may select.

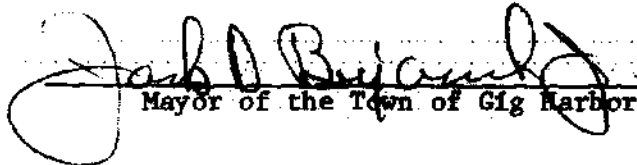
No person to whom a license has been issued, pursuant to this ordinance, shall suffer or allow any other person chargeable with a separate license to operate under or display his license nor shall such other person operate under or display such license.

Section 20. False Returns, etc. It shall be unlawful for any person liable to tax hereunder to fail or refuse to make application or return for a license or to pay the fee or tax or installment thereof when due, or for any person to make any false or fraudulent application or return or any false statement or representation in or in connection with, any such application or return, or to aid or abet another in any attempt to evade payment of the fee or tax, or any part thereof, or for any person to fail to appear to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal, or in any manner to hinder or delay the Town or any of its officers in carrying out the provisions of this ordinance.


Section 21. Effect of Partial Invalidity: If any provision or section of this ordinance shall be held void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 22. Penalty. Any person violating or failing to comply with any of the provisions of this ordinance or any lawful rule or regulation adopted by the Town Clerk pursuant thereto shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in any sum not to exceed Three Hundred Dollars (\$300.00), or by imprisonment in the Town Jail for a term not exceeding ninety (90) days, or by both such fine and imprisonment.

PASSED THE COUNCIL and approved by me this 26th day of January, 1970.


Mayor of the Town of Gig Harbor.

Attest:


Clerk of the Town of Gig Harbor

STATE OF WASHINGTON)
COUNTY OF PIERCE) ss.
TOWN OF GIG HARBOR)

I, NELLIE ERICKSON, Clerk of the Town of Gig Harbor, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1229 of the Town entitled:

"AN ORDINANCE RELATING TO, AND PROVIDING FOR, A LICENSE OR OCCUPATION TAX UPON CERTAIN BUSINESSES, OCCUPATIONS, PURSUITS, AND PRIVILEGES: DEFINING OFFENSES AND PROVIDING PENALTIES."

passed by the Council of said Town, on the 27 day January, 1970, and that on the 29th day of January, 1970, said Ordinance was by me duly published in the Peninsula Gateway, a newspaper of general circulation in the Town of Gig Harbor.

Dated this 29th day of January, 1970.


NELLIE ERICKSON

STATE OF WASHINGTON)
COUNTY OF PIERCE) ss.
TOWN OF GIG HARBOR)

NELLIE ERICKSON, being first duly sworn, on oath deposes and says:

That at all times hereinafter mentioned she was and she now is the duly appointed, qualified and acting Clerk of the Town of Gig Harbor, a municipal corporation of the fourth class in Pierce County, State of Washington; that on the 27th day of January, 1970, as such Clerk of the Town of Gig Harbor, she had published in the Peninsula Gateway, a newspaper of general circulation in the Town of Gig Harbor, said Ordinance entitled:

"AN ORDINANCE RELATING TO, AND PROVIDING FOR, A LICENSE OR OCCUPATION TAX UPON CERTAIN BUSINESSES, OCCUPATIONS, PURSUITS, AND PRIVILEGES: DEFINING OFFENSES AND PROVIDING PENALTIES."


NELLIE ERICKSON

SUBSCRIBED AND SWORN TO before me this 29th day of January, 1970.


MAYOR OF THE TOWN OF GIG HARBOR

Affidavit of Publication

STATE OF WASHINGTON, }
COUNTY OF PIERCE. } S.S.

Robert H. Platt, Jr. being first duly sworn,

on oath deposes and says that he is the Co-Publisher
of THE PENINSULA GATEWAY, a weekly newspaper. That said
newspaper is a legal newspaper and it is now and has been for
more than six months prior to the date of the publication hereinafter
referred to, published in the English language continually as a weekly
newspaper in Gig Harbor, Pierce County, Washington, and it is
now and during all of said time was printed in an office maintained
at the aforementioned place of publication of said newspaper.

That the annexed is a true copy of an Ordinance No.

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as it was published in regular issues (and not in supplement form)

of said newspaper once each week for a period of one (1)

consecutive weeks, commencing on the 29th day of Jan.,

1970, and ending on the 29th day of Jan., 1970,
both dates inclusive, and that such newspaper was regularly dis-
tributed to its subscribers during all of said period.

That the full amount of the fee charged for the foregoing publi-
cation in the sum of \$86.59 which amount has been paid in
full, at the rate of \$3.20 a hundred words for the first insertion and
\$2.40 a hundred words for each subsequent insertion.

Robert H. Platt Jr

Subscribed to and sworn before me this 31 day of

January, 19 70

Robert E. Hunt Jr

Notary Public in and for the State of Washington.

Residing at Fox Island