

## REPORT TO CITY COUNCIL

**DATE:** MAY 8, 2013

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER

**BY:** LOUIS CELAYA, DEPUTY CITY MANAGER  
MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

**SUBJECT:** ADOPTION OF AN ORDINANCE NO. 13-401 OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING THE AGOURA HILLS MUNICIPAL CODE BY REPEALING CHAPTER 3 OF ARTICLE VI OF THE AGOURA HILLS MUNICIPAL CODE AND AMENDING CHAPTER 8 OF ARTICLE VI OF THE AGOURA HILLS MUNICIPAL CODE IN ITS ENTIRETY AND ESTABLISHING A BUSINESS LICENSING PROGRAM

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At the April 24, 2013, City Council meeting, the Council received information and was presented the proposed ordinance. The City Council approved, on a 5-0 vote, to introduce, read by title only, and waive further reading of Ordinance No. 13-401, amending the Agoura Hills Municipal Code by repealing Chapter 3 of Article VI of the Agoura Hills Municipal Code and amending Chapter 8 of Article VI of the Agoura Hills Municipal Code in its entirety and establishing a business licensing program for the City of Agoura Hills.

The proposed ordinance will establish definitions, purpose, requirements for business licenses and fees, general application procedures, approval and renewal process, processes for delinquent fees and collection actions, refunds, duplicate business licenses, violations, and processes for appeals. Additionally, Ordinance No. 13-401 will also create supplemental procedures (i.e., investigations of specific business types) for specific types of businesses identified in Section 6816 (e.g., Billiard Rooms, Food Establishments, Filling Stations, etc.) which is required in order to be able to process particular types of licenses. There is one minor change to Ordinance No. 13-401 under section 6804 (Annual Renewal of a Business License) to correct a clerical error that that was missed in the first reading of Ordinance. The correction consists of the removal of the thirty-day limit that was previously included.

City staff has notified the County of Los Angeles Office of the Treasurer and Tax Collector, expressing the City's desire to opt out of the Business License Program. Staff is currently preparing all necessary administrative work to assume responsibility of business licensing from the County, commencing July 1, 2013.

Assuming local responsibility of business licensing will create a convenient, business-friendly, and efficient Business License Program, provide the City with better knowledge of businesses within its limits, as well as better regulation of the businesses.

Attached for your reference is a copy of the proposed ordinance.

### **RECOMMENDATION**

Staff respectfully recommends the City Council adopt Ordinance No. 13-401, an Ordinance of the City Council of the City of Agoura Hills, California, Amending the Agoura Hills Municipal Code by Repealing Chapter 3 of Article VI of the Agoura Hills Municipal Code and Amending Chapter 8 of Article VI of the Agoura Hills Municipal Code in its entirety and Establishing a New Business Licensing Program.

Attachment: Ordinance No. 13-401

**ORDINANCE NO. 13-401**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING THE AGOURA HILLS MUNICIPAL CODE BY REPEALING CHAPTER 3 OF ARTICLE VI OF THE AGOURA HILLS MUNICIPAL CODE AND AMENDING CHAPTER 8 OF ARTICLE VI OF THE AGOURA HILLS MUNICIPAL CODE IN ITS ENTIRETY AND ESTABLISHING A NEW BUSINESS LICENSING PROGRAM**

**THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:**

**Section 1. Findings and Intent.**

A. On March 2, 1983, the City Council of the City of Agoura Hills adopted Ordinance No. 13 adopting Los Angeles County's business license ordinance (Chapter 7 of Title 7 of the Los Angeles County Code) by reference, as Chapter 8 of Article VI of the Agoura Hills Municipal Code.

B. The City currently contracts with the County of Los Angeles for the County of Los Angeles to administer the City's business license program (Chapter 8 of Article VI of the Agoura Hills Municipal Code).

C. On August 9, 1986, the City Council adopted Ordinance No. 118, establishing a Business Registration Permit Program in Chapter 3 of Section VI of the Agoura Hills Municipal Code whereby existing businesses register with the City to enable the City to ensure that businesses are operating in the correct zones within the City and to verify that such businesses have also obtained all other necessary governmental agency (*i.e.*, Public Health, Fire, Sheriff, etc.) approvals.

D. The City now desires to administer the business license program itself to provide residents and businesses in Agoura Hills convenient and local access to obtain a business license. As such, there is no need for both a business license program and a business registration permit program in the City.

E. To streamline the business license program functions in the City, the City of Agoura Hills desires to repeal Chapter 3 and Chapter 8 of Article VI and adopt new Chapter 8 of Article VI of the Agoura Hills Municipal Code to establish a business license program.

F. The City of Agoura Hills desires to adopt this Ordinance to establish one streamlined regulatory mechanism, whereby the City may review the management and ownership of specific types of businesses, maintain an accurate record of businesses conducting business in the City, for statistical purposes and to assist in zoning compliance. The business license program is not designed to raise revenue, nor is it a substitute for land use regulations. The business license fee

is not a revenue-raising device, but shall bear a reasonable relationship to the costs incurred by the City in reviewing, processing, and acting upon the application.

G. The purpose of this Ordinance is to establish a business licensing program within the City of Agoura Hills.

H. All legal prerequisites to the adoption of this Ordinance have occurred.

**Section 2.** The City Council hereby repeals Chapter 3 of Article VI of the Agoura Hills Municipal Code in its entirety.

**Section 3.** The City Council hereby amends Chapter 8 of Article VI of the Agoura Hills Municipal Code in its entirety to read as follows:

### **“Chapter 8 – BUSINESS LICENSING**

#### **6800 - Definitions.**

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means a person who has applied for, but not obtained, a business license or renewal required by this Chapter.

*Application* means a written request made to the City by the applicant for a business license or renewal required by this Chapter.

*Appeal Officer* means the City Manager, or his or her designee, for the purpose of reviewing business license application related appeals.

*Business* means any employment, avocation, occupation, profession, trade, calling, lawful game, show, exhibition, event, venture, fund-raising activity, commercial enterprise, company, corporation, joint enterprise, place of business, partnership or other activity or enterprise engaged in for gain, profit, benefit, advantage, or livelihood, whether or not a gain, profit, benefit, advantage or livelihood is earned by such business.

*Branch Establishment* means a location where a business is conducted in addition to its main or fixed place of business.

*Business License* means a license issued pursuant to this Chapter by which each business owner having a business, or is doing business in the City, is required to provide general information to the City and obtains a license prior to conducting business in the City.

*City* means the City of Agoura Hills.

*Director* means the Director of Planning and Community Development.

*Home-Based Business* means a business conducted within a residential dwelling unit or structure, employing occupants of the dwelling unit, with the business activity being subordinate to the residential use of the property.

*Person* means and includes any business owner, individual, firm, co-partnership, joint venture, association, corporation, estate, business trust, or any other group or combination acting as a unit.

*Premises* means all lands, structures, places and also the personal property, equipment and appurtenances connected with or used in any business.

### **6801 - Purpose.**

The purpose of this Chapter is to establish a regulatory mechanism whereby the City may review the management and ownership of specific types of businesses, maintain an accurate record of businesses conducting business in the City for statistical purposes and to assist in zoning compliance. The business license program is not designed to raise revenue, nor is it a substitute for land use regulations.

### **6802 - Business License and Fee Required.**

- a. Business License Required.
  1. No person shall conduct any business in the City without first having obtained a business license, paid the applicable business license fee and complied with any and all applicable provisions of this Code.
  2. A separate business license shall be obtained for each business location and for each separate type of business at the same location.
  3. A home-based business shall be required to obtain a business license prior to conducting business within a residential dwelling unit or on residential property.
- b. If state or federal law exempts a business from obtaining a business license, said business shall provide satisfactory proof that the business is exempt from the City's business license requirement.
- c. Fee Required.
  1. Every person engaging in business in the City shall pay a business license fee as prescribed by resolution adopted by the City Council.
  2. When a business license fee is imposed upon any business pursuant to this Chapter and such business is conducted at one or more fixed places of business and one or more branch establishments, the fee shall be computed as if each fixed place of business and branch establishment is separate and independent.
  3. The business license fee is not a revenue raising device, but shall bear a reasonable relationship to the costs incurred by the City in reviewing, processing and acting upon the application.

- d. Fee Exemption.
  - 1. The following businesses shall be exempt from paying the business license fee but are still required to obtain a business license:
    - A. Non-profit and charitable organizations;
    - B. Businesses exempt from paying fees under the Constitution of the United States or the State of California, or under the laws of the State of California.
  - 2. Any person claiming an exemption pursuant to this section shall file a verified statement, from the franchise tax board, stating the facts upon which the exemption is claimed.
- e. Evidence of doing business. When a person by use of signs, circulars, cards, telephone book, or newspapers, or other form of advertisements, holds out, or represents that such person is conducting business in the City, or when a person holds an active license or permit issued by a government agency indicating that such person is in business in the City, then these facts shall be considered prima facie evidence that such person is conducting a business in the City for purposes of this Chapter.

**6803 - General Application Procedures.**

- a. Applications for a business license shall be filed with the City and shall comply with the following requirements:
  - 1. Completion of an application on the form designated by the City and signed by the applicant under penalty of perjury;
  - 2. Applications for new business licenses and business license renewals shall be filed a minimum of thirty days prior to the date requested for issuance of the permit;
  - 3. Payment of the applicable filing fee; and
  - 4. Such other information as may be required by the City.
- b. Business License Guidelines. The City shall formulate and publish “The City of Agoura Hills Business License Guidelines.” The Director shall have the authority to change, update, and revise the guidelines as necessary in order to implement the provisions of this ordinance.
- c. Other Agency Review. A business license application may be reviewed by any City department or any governmental agency to determine if the business operations and premises to be occupied meet the requirements of federal, state, or local laws. The Director may also refer to any governmental agency any information submitted by persons subject to the provisions of this Chapter in connection with the conduct of a business regulated, or supervised, or otherwise the concern of any such agency, including agencies concerned with health regulations, zoning conformance, fire safety, police considerations or any other

safeguard of the public interest. Failure to comply with conditions required by other agency review shall result in revocation of the certificate once granted.

**6804 - Annual Renewal of a Business License.**

- a. Except as otherwise provided in this Chapter, when an applicant submits a timely business license renewal application and pays the renewal processing fee as set by resolution of the City Council, the City shall renew the license, to be effective upon the expiration of the old license. In the case of a business activity having a fixed location, application for a license for a different location is not a renewal and shall be deemed a new license application.
- b. Renewal Application Deadlines. Every person desiring to continue in business after the expiration of the license period shall file a renewal application and pay the required renewal fee prior to the expiration of the license period.
- c. Late Applications - Renewal applications submitted after the application deadline are subject to the delinquent business license fees set forth in Section 6805. Late renewal applications shall not be processed until the applicant has paid all required fees.

**6805 - Delinquent Business License Fee and Action to Collect.**

- a. Delinquent Fees. Any person who fails to apply for and receive a business license prior to the start of business, or has not applied for the renewal of an existing business license prior to expiration of the business license, shall pay the applicable fee, plus a penalty fee not to exceed \$25 dollars. Should legal action be required to collect any delinquent fee, an additional amount shall be charged equal to the cost incurred by the City in collection of the fee, including reasonable attorneys' fees.
- b. Applications for a business license or for a renewal that are not accompanied by the required business license fee or any applicable delinquency fees will not be processed until such fees have been paid in full.
- c. Delinquent business license fees are subject to the penalty provisions established by Article 1, Chapter 2, of this Code.

**6806 - Business License - Operative Date.**

The operative date for a new business license shall be one year from the date of issuance.

**6807 - Refunds.**

No business license fees or delinquent fees collected shall be refundable.

**6808 - Duplicate Business License.**

Upon filing a statement indicating that a business license has been lost or destroyed, a duplicate business license shall be issued by the City.

**6809 - License Transfers and Changes.**

- a. Transfers of Ownership. A new business license is required whenever there is a transfer in ownership of a business. The following transactions, including but not limited to, shall be considered transfers:
  - 1. The addition or withdrawal of a new partner or partners; or
  - 2. The transfer of a business from one partnership to another; or
  - 3. The transfer of a business from a partnership to a corporation; or
  - 4. The transfer of a business from one corporation to another; or
  - 5. The transfer of a business from a corporation to a partnership; or
  - 6. The transfer of a business from a corporation to an individual, or vice versa, unless the corporation and the individual are the same person; or
  - 7. The transfer of a business from a partnership to an individual, or vice versa; or
  - 8. The transfer of a majority share of stock in a corporation from one shareholder to another.
- b. Change of Name. A new business license is required whenever there is a change of name of a business. If there is no transfer of ownership or change in the nature or scope of business or in the business location and if the licensee operating under the previous name had a valid business license at the time of the change of name, the new license shall be issued upon filing of a complete application and payment of all required fees.
- c. Change of Location. A new business license is required whenever there is a change in location of a business.
- d. Change in Business. A new business license is required whenever there is a change in the nature or scope of the business.



**6810 - Assignment of License Prohibited.**

The assignment of or attempt to assign any license issued pursuant to this Chapter is unlawful and any such assignment or attempt to assign a license shall render the license null and void.

**6811 - Posting and Keeping of Business License.**

- a. Any person engaging in business at a fixed location or branch establishment in the City shall keep a business license posted in a conspicuous place upon the premises where the business is transacted.
- b. Any person engaging in business, but not operating at a fixed location or branch establishment in the City, shall be in possession of a business license at all times while engaged in such business in the City.

**6812 - Authority to Enforce/Entry to Inspect.**

- a. Authority to Enforce. The Director, or his or her designee, shall have the authority to enforce each of the provisions of this Chapter. The Los Angeles County Sheriff's Department and other City departments shall render assistance in the enforcement of this Chapter as may be necessary. The City Attorney or City Prosecutor is authorized to file a complaint against any persons found violating the provisions of this Chapter.
- b. Entry to Inspect Business License. The City, County Sheriff, County Fire Inspector, and other City officers empowered to enforce the provision of this Chapter, shall have the power and authority to enter into a business, free of charge and at any reasonable time, to see the business license posted in a conspicuous place upon the premises.

**6813 - Violations.**

Any person violating this Chapter shall be guilty of a misdemeanor as provided in Chapter 2 of Article 1 of this Code. The commencing or conducting of any such business without having first procured such license, or without having complied with any and all such requirements or provisions, shall constitute a separate violation of this Code for each and every day that such business is so commenced or conducted. It is a violation of this Chapter to knowingly make a false statement in any application for a license or permit or in any report required under this Chapter.

**6814 - Withholding a Business License.**

The City shall withhold a business license from any person when there are pending violations of this Code against such person and/or business applying for a business license, or when a debt is owed to the City as a result of a violation of this Code.

### **6815 - Remedies Cumulative.**

All remedies prescribed in this Chapter shall be cumulative and the use of one or more remedies by the City shall not prohibit the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

### **6816 - Investigation of Specific Businesses.**

- a. Category B Businesses – No Criminal Background Check Required.

Upon receipt of an application for one of the following businesses, the Director, or his or her designee, shall coordinate with several governmental entities to ensure compliance with all applicable state and county codes as deemed necessary by the Director, and may obtain reports from the Building and Safety Department, Fire Department, County Animal Control, County Environmental Health Department, County Health Department, and any other agencies he or she deems necessary to determine if the criteria for issuance of a business license have been met:

1. Ambulance operator
2. Ambulance vehicle
3. Ambulance driver
4. Apartment houses with 16 or more units
5. Auto body & fender
6. Auto paint shop
7. Boarding house
8. Carnival game booth
9. Circus/travel show
10. Close-out sale
11. Coin game
12. Cold storage warehouse
13. Filling stations
14. Food establishment (food sales as an accessory use)
15. Hay, grain & feed
16. Hotel with 16 or more rooms
17. Launderette/laundromat
18. Livery stable
19. Lumberyard
20. Motor vehicle rental
21. Plant nursery
22. Public eating (eateries/restaurants where food is prepared)
23. Taxicab vehicles

- b. Category C Businesses – Criminal Background Check Required.

Upon receipt of an application for one of the following businesses, the Director, or his or her designee, shall: (1) coordinate with several governmental entities to ensure

compliance with all applicable state and county codes as deemed necessary by the Director, and may obtain reports from the Building and Safety Department, Fire Department, County Animal Control, County Environmental Health Department, County Health Department, and any other agencies he or she deems necessary to determine if the criteria for issuance of a business license have been met; and (2) conduct an investigation and criminal background check on the applicant(s):

1. Acupressure and acupressure technicians
2. Adult businesses (as defined in Section 9120.1.A.G of this Code)
3. Billiard room
4. Bookstore
5. Carnival
6. Dance
7. Entertainment
8. Entertainment Manager
9. Exhibition (fee for entry)
10. Game arcade
11. Gun dealer
12. Health gym/spa
13. Locksmith
14. Massage establishment owner (owns 5% or more of the business and not certified under state massage therapy laws)
15. Model studio
16. Motor vehicle repair
17. Outdoor festival
18. Pawnbrokers and second hand dealers
19. Peddling-solicitation
20. Psychic reading
21. School private
22. Second hand dealer
23. Taxi cab driver
24. Taxi cab operator
25. Theatre

#### **6817 – Investigation & Criminal Background Checks.**

Once a completed application for one of the businesses listed in Section 6816(b) is received and the applicant pays the prescribed application fee, the Director, or his or her designee, shall initiate an investigation and criminal background check of the applicant(s) and managerial staff as deemed necessary by the Director. The background check shall require the applicant to be fingerprinted and provide a copy of valid photo identification. The purpose of this investigation is to assist the Director in determining if the business license should be granted.

### **6818 - Review and Approval.**

Business license applications for businesses listed in Section 6816 shall be subject to the approval of the Director, or his or her designee.

### **6819 - Grounds for Denial or Revocation of Business License.**

- a. Every business license granted under this Chapter is granted and accepted by all parties with the express understanding that the City Council may revoke the business license if it is in the best interest of the health, welfare, or safety of the public to do so and grounds for such revocation exist as noted in this Section.
- b. Except as otherwise provided in this Chapter, a business license may be denied or revoked pursuant to this Chapter only upon one or more of the following grounds:
  1. The applicant has failed to complete the application for a business license or renewal, as prescribed in this Chapter; or
  2. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for the business license or in any report or statement required to be filed with the City; or
  3. The applicant is found to have committed a crime involving moral turpitude that is substantially related to the business activity for which the business license is being sought; or
  4. The business or the activities or conduct of the business at the proposed fixed location is prohibited by any provision of this Code or any local, state or federal law, statute, rule or regulation;
  5. The business or the activities or conduct of the business has been or is in violation of any conditions of approval or restrictions imposed; or
  6. The business is being operated in a manner determined to constitute an immediate threat or menace to the health or safety of the public. Failure to correct objectionable conditions constituting a public nuisance within a reasonable time after lawful notice from a governmental entity shall be prima facie proof thereof; or
  7. The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety laws of the state of California or of the City of Agoura Hills; or
  8. The prescribed fees for the business license or renewal have not been paid; or
  9. Delinquent business license fees or renewal fees have not been paid;

### **6820 - Effect of Business License Denial.**

If an applicant's business license application for a particular business activity has been denied, the City shall not process a new application by that applicant for that business activity for a twelve (12) month period after the date of the decision to deny unless the Director determines that the reason for the denial has been cured and no longer exists.

### **6821 - Conditions of Approval.**

- a. **Right to Condition New License.** The Director, or his or her designee, may condition any new business license if he or she finds that the conditions relate to the anticipated impacts of the business and are reasonably necessary to mitigate those impacts.
- b. **Application to Change Conditions.** The City Appeal Officer may change, modify or eliminate any conditions previously placed on a license upon written request if said City Appeal Officer finds that the reasons for the original imposition of such conditions have been cured or no longer exist. Applications to change conditions shall be noticed and set for hearing in a manner consistent with this Chapter.

### **6822 - Appeal.**

- a. Any person dissatisfied with a decision of the Director to approve, deny or condition a business license application may appeal the decision to the City Appeal Officer by filing with the City Clerk an appeal petition within fifteen days of the date of mailing of the decision.
- b. An appeal petition shall be signed by the appellant or the legal representative of the appellant and shall state that the appellant appeals from a specified decision or a particular part thereof. Every appeal petition shall contain a statement of the facts upon which the appeal is based in sufficient detail to enable the City Appeal Officer to understand the nature of the controversy, the basis of the appeal, and the relief requested.
- c. If a timely appeal is filed, the effect of the decision shall be stayed pending the City Appeal Officer's resolution of the matter unless the Director specifically finds that the public health and safety is endangered, in which case the decision shall take effect immediately.

### **6823 - Appeals - Notice of Hearing.**

Upon receipt by the City Clerk of a timely notice of appeal, a hearing shall be set in a manner consistent with Section 6826.

**6824 - Appeals - Hearing Procedure.**

The City Appeal Officer shall conduct the appeal hearing de novo and shall hear and consider evidence, argument and points and authorities of law, and may require parties before it to submit such argument and points and authorities of law prior to rendering any decision. The hearing shall be held as provided in Section 6827.

**6825 - Modification, Suspension or Revocation.**

Any license issued by the City may be conditioned, modified, suspended or revoked for cause by the City Appeal Officer.

**6826 - Notice to Licensee.**

Notice of the time and place of the appeal hearing shall be served at least ten days prior to the hearing on the applicant.

**6827 - Procedure for Appeal Hearing.**

- a. The licensee or legal representative of the licensee shall have the right to bring witnesses to testify on his or her behalf.
- b. Hearings need not be conducted according to technical rules relating to evidence and witnesses.
- c. The City Appeal Officer shall issue its decision by written decision. The decision shall contain a determination of the issues presented.
- d. The decision of the City Appeal Officer shall be final.”

**Section 4. CEQA.** The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment because the adoption of this Ordinance merely changes the responsibility of processing business licenses from the County of Los Angeles to the City of Agoura Hills, which will not result in construction of structures, grading, intensification of uses, or other impacts that could cause potentially significant adverse environmental impacts. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

**Section 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion

thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**Section 6. Certification and Posting.** The City Clerk of the City of Agoura Hills shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law. This Ordinance shall go into effect on the 31st day after its adoption.

**PASSED, APPROVED, AND ADOPTED** this 8<sup>th</sup> day of May, 2013, by the following vote to wit:

AYES:           ( )  
NOES:           ( )  
ABSENT:       ( )  
ABSTAIN:       ( )

CITY OF AGOURA HILLS:

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Denis Weber, Mayor

ATTEST:

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Kimberly M. Rodrigues, MMC  
City Clerk

APPROVED AS TO FORM:

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Candice K. Lee  
City Attorney