



## ABERDEEN CITY COUNCIL

August 12, 2015

### COUNCIL MEETING AGENDA

7:15 p.m. Third Floor, City Hall

### COMMITTEE OF THE WHOLE

- A. Guest Speakers
- B. Additions to Agenda
- C. Department Heads
- D. Mayor's Report
- E. Non-Standing Committee Reports

### COUNCIL MEETING

#### I. ROLL CALL

#### II. FLAG SALUTE

#### III. APPROVAL OF MINUTES

#### IV. PUBLIC COMMENT Re: Agenda Items (Please limit your comments to 3 minutes)

#### V. FINANCE COMMITTEE

- A. Committee Chair Report
- B. Approval of Expenditures
  - 1. Recommend approval of expenditures and payroll.
- C. Ordinances
  - 1. Second reading and date of public hearing of Bill No. 15-01 requiring business licenses for residential rental housing, amending Chapter 5.10 and § 5.07.220 of the AMC.

#### VI. PUBLIC WORKS

- A. Committee Chair Report
- B. Reports & Communications

#### VII. PUBLIC SAFETY

- A. Committee Chair Report
- B. Reports & Communications
  - 1. Report from Public Safety and Chief of Police recommending that the Aberdeen Police Department be allowed to surplus vehicle #356 through public auction or to another law enforcement agency for the fair market value.
- C. Ordinances
  - 1. First reading of Bill No. 15-10 repealing Ordinance No. 6576 and lifting the moratorium prohibiting the licensing, location, and permitting of automobile racing events or facilities in the City of Aberdeen, State of Washington.

- VIII. SPECIAL AGENDA ITEMS
- IX. CITY COUNCIL COMMENT PERIOD
- X. PUBLIC COMMENT PERIOD (Please limit your comments to 3 minutes)
- XI. EXECUTIVE SESSION

The City of Aberdeen does not discriminate against or exclude anyone from participation in public meetings. Requests for assistance should be made by contacting the Finance Department at 360-537-3236, 48 hours in advance of the meeting. Thank you.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE REQUIRING BUSINESS LICENSES FOR RESIDENTIAL RENTAL HOUSING, AMENDING CHAPTER 5.10 AND SECTION 5.07.220 OF THE ABERDEEN MUNICIPAL CODE.**

**WHEREAS**, real property owners engaged in the business of rental housing are exempt from state and local business and occupation taxes under the Washington State Supreme Court decision in *Apartment Operators' Association, Inc. v. Schumacher*, 56 Wn.2d 46 (1960) and have not been required to comply with Aberdeen's Business Licensing and Registration Code (Chpt. 5.10 AMC) because their business income would be fully deductible;

**WHEREAS**, the city council has determined that persons engaged in the business of rental housing should comply with licensing requirements, even though the income from their properties is not taxable under the *Apartment Operators' Association* decision, to assist the city in complying with state regulation of rental housing and to protect public health, safety, and welfare;

**WHEREAS**, the state Landlord Tenant Act mandates that cities inspect rental housing and furnish reports upon request from tenants and also mandates court proceedings for inspections of rental housing under the city's Unfit Dwellings, Buildings and Structures Code;

**WHEREAS**, inspections performed at the request of tenants and for violations of the Unfit Dwellings, Buildings, and Structures Code confirm that there exists rental housing in Aberdeen that is below minimum building standards and appears to violate the state Landlord Tenant Act (RCW 59.18.060);

**WHEREAS**, requiring business licenses for rental housing will provide the city with the resources to determine whether specific local standards for rental housing should be adopted and to partially off-set the cost of enforcing the state's mandatory inspection program for rental housing;

**WHEREAS**, requiring licenses for rental housing will also assist the city in enforcing its current unfit dwellings code by distinguishing between rental housing under the state Landlord-Tenant Act and other dwellings and structures that are not subject to the state rental housing inspection process; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ABERDEEN:**

**SECTION 1. CODE SECTION AMENDED.** Ordinance 6373, in part, codified as AMC 5.10.020, is hereby amended to read as follows:

**AMC 5.10.020 Definitions.**

~~In construing the provisions of this chapter, save when otherwise declared or clearly apparent from the context, The definitions found in Chapters 5.02 and 5.06 Chapter 5.03 AMC shall apply herein to this chapter unless otherwise declared or clearly apparent from the context. Words or phrases used in this chapter that are not expressly defined shall be interpreted using the meaning they have in common usage and to give this chapter its most reasonable application.~~

**SECTION 2. CODE SECTION AMENDED.** Ordinance 6373, in part, codified as AMC 5.10.110, is hereby amended to read as follows:

**AMC 5.10.110 ~~Business license fees—regulations—imposed~~ Director to make rules.**

~~There are hereby imposed business license fees and regulations upon the businesses and occupations enumerated in sections 5.10.190, 5.10.200, 5.10.210, and 5.10.220 as deemed necessary in the interest of the public safety and welfare. The business license fee applicable to each type of business is due and payable on an annual basis, unless otherwise provided, and must be paid prior to the issuance of a city business license. Annual license fees may be prorated on a monthly basis in the first year of application only; renewal license fees may not be prorated. Unless provided otherwise, the license fees herein levied shall be additional to any license fee or tax imposed under any other law or ordinance. The Director shall have the power to adopt, publish and enforce rules and regulations for the purpose of carrying out the provisions of this chapter and it shall be unlawful to violate or fail to comply with any such rule or regulation.~~

**SECTION 3. CODE SECTION AMENDED.** Ordinance 6373, in part, codified as AMC 5.10.130, is hereby amended to read as follows:

**AMC 5.10.130 Revocation of business license.**

A. If a person defaults on the payment of any tax or fee required by this title, their business license shall be considered automatically revoked and invalid from the date of default. This revocation will have immediate force and effect without further notice to the license holder.

B. The director may revoke a business license by written notice to the license holder any time such person fails to comply with any provision of this title, unless otherwise provided. This revocation is effective upon the mailing of notice by the director.

C. It shall be unlawful for any person, business or corporation, or employee or officer of a business or corporation, to engage in business after the revocation of a license.

**SECTION 4. NEW CODE SECTION ADOPTED.** The following Section 5.10.195 is hereby added to the Aberdeen Municipal Code:

**AMC 5.10.195 Supplemental license fees – regulated businesses.**

There are hereby imposed additional business license fees and regulations upon the businesses and occupations regulated by sections 5.10.190, 5.10.200, 5.10.210, and 5.10.220 in order to protect the public safety and welfare. The business license fee applicable to each type of business is due and payable on an annual basis, unless otherwise provided, and must be paid prior to the issuance of a city business license.

**SECTION 5. NEW CODE SECTION ADOPTED.** The following Section 5.10.220 is hereby added to the Aberdeen Municipal Code:

**AMC 5.10.220 Residential rental business license.**

A. **License required.** Every rental unit owner shall obtain an annual residential rental business license, to be issued pursuant to this chapter, prior to operating, leasing, or causing to be leased, a rental unit. Rental unit owners must file a written application annually with the Director covering each rental unit to be leased. Each rental unit and each unit unavailable for rent must be separately identified in the application. Multiple rental units owned and operated by the same business entity on more than one premises may be included in a single license. No license shall be issued for a residential rental business unless the Director has received a complete application including the appropriate application fee. It is unlawful to lease any rental unit that is not listed in a current rental business license or in sub-section B, below.

B. **Exceptions.** The provisions of this section shall apply to all rental units, with the exception of:

1. Owner-occupied rental units;
2. Units unavailable for rent;
3. Housing accommodations in hotels, motels, inns or tourist homes;
4. Housing accommodations in retirement or nursing homes;
5. Housing accommodations in any hospital, state-licensed community care facility, convent, monastery or other facility occupied exclusively by members of a religious order or an extended medical care facility;

6. Housing accommodations that a government unit, agency or authority owns, operates or manages, or which are specifically exempted from municipal regulation by state or federal law or administrative regulation. This exception shall not apply once the governmental ownership, operation or management regulation is discontinued.

C. **Definitions.** In addition to the definitions that apply generally to this chapter, the following definitions and interpretations shall apply to the terms and phrases found in this section:

1. "Accessory dwelling unit" or "ADU" means a unit that meets the requirements of AMC 17.04.070(3).

2. "Lease" means any agreement that gives rise to relationship of landlord and tenant.

3. "Owner" means the owner of record as shown on the last Grays Harbor County tax assessment roll or such owner's authorized agent.

4. "Rental unit" means a unit occupied or leased by a tenant.

5. "Single-family residence" means a building, modular home, or new manufactured home designed to contain no more than one dwelling unit, plus one accessory dwelling unit.

6. "Tenant" means any adult person granted temporary use of a rental unit pursuant to a lease or rental agreement with the owner of the rental unit.

7. "Unit" means any structure or part of a structure, which is used as a home, residence or sleeping place by one or more persons, including but not limited to, single-family residences, duplexes, tri-plexes, four-plexes, multi-family dwellings, apartment buildings, condominiums, mobile homes and similar living accommodations.

8. "Unit unavailable for rent" means a unit whose owner has filed with the Director a statement signed under penalty of perjury that such unit is not offered or available for rent as a rental unit and that prior to offering or making the unit available as a rental unit, the owner will apply or re-apply for a Residential Rental Business License and comply with any applicable administrative regulations adopted pursuant to this chapter.

D. **License fee.** Residential rental businesses shall obtain an annual license under AMC 5.10.040 and pay an annual license fee of twenty-five dollars (\$25.00), plus an additional one dollar (\$1.00) for each rental unit identified in the license application.

**SECTION 6. CODE SECTION AMENDED.** Ordinance 6456, Section 3, in part, codified as AMC 5.07.220, is hereby amended to read as follows:

**AMC 5.07.220 Unlawful actions – Violation - Penalties.**

- (1) It shall be unlawful for any person liable for taxes or fees under this title:
  - (a) To violate or fail to comply with any of the provisions of this ~~chapter~~ title or any lawful rule or regulation adopted by the Director;
  - (b) To make any false statement on any license application or tax return;
  - (c) To aid or abet any person in any attempt to evade payment of a license fee or tax;

- (d) To fail to appear or testify in response to a subpoena issued pursuant to this title;
- (e) To testify falsely in any investigation, audit, or proceeding conducted pursuant to this title.

(2) Violation of any of the provisions of this ~~chapter~~ title is a gross misdemeanor. Any person convicted of a violation of this ~~chapter~~ title may be punished by a fine not to exceed ~~\$1,000~~ \$5,000, imprisonment not to exceed ~~one year~~ 364 days, or both fine and imprisonment. The penalties or punishments provided in this ~~chapter~~ section shall be in addition to all other penalties provided by law.

(3) Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a license shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed \$5,000, or imprisonment not to exceed ~~one year~~ 364 days, or both fine and imprisonment.

**SECTION 7. SEVERABILITY.** Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation.

**SECTION 8. PUBLICATION BY SUMMARY.** The Finance Director is authorized and directed to publish the attached summary in lieu of this ordinance.

**SECTION 9. EFFECTIVE DATE.** This ordinance shall take effect immediately upon its passage, signing, and publication; except that the amendments to AMC 5.07.220 in Section 6 shall take effect July 1, 2015.

**PASSED and APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Bill Simpson, Mayor

ATTESTED:

\_\_\_\_\_  
Kathryn Skolrood, Finance Director

# ORIGINAL

## CITY OF ABERDEEN COMMITTEE REPORT

**MR. MAYOR:**

**Hon. William Simpson**

**THE MEMBERS OF  
YOUR COMMITTEE ON:**

**Public Safety and Chief of Police**

**IN REFERENCE TO:**

**SURPLUS OF VEHICLE 356**

**Report and recommend as follows:**

Vehicle #356 is a 2006 Ford Crown Victoria that has served the Aberdeen Police Department for 9 years. This car has over 140,000 miles on it and has become increasingly costly to maintain.

It is recommended that the Aberdeen Police Department be allowed to surplus this vehicle to be sold through public auction or to another law enforcement agency for the fair market value.

  
Robert H. Torgerson  
Chief of Police

\_\_\_\_\_  
Tawni Andrews, Chair

\_\_\_\_\_  
Alice Phelps

\_\_\_\_\_  
Jerry Mills

\_\_\_\_\_  
James Cook

Reported: August 12, 2015

Adopted: \_\_\_\_\_

**FOR AUGUST 9, 2015, CITY COUNCIL AGENDA**

15 - 10

**ORDINANCE NO. 6576**

**AN ORDINANCE REPEALING ORDINANCE 6576 AND LIFTING THE MORATORIUM PROHIBITING THE LICENSING, LOCATION, AND PERMITTING OF AUTOMOBILE RACING EVENTS OR FACILITIES IN THE CITY OF ABERDEEN, STATE OF WASHINGTON.**

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ABERDEEN:**

**SECTION 1.           ORDINANCE REPEALED.** Ordinance 6576 is repealed.

**SECTION 2.           EFFECTIVE DATE.** This ordinance shall take effect immediately upon its passage, signing, and publication.

**SECTION 3.           PUBLICATION BY SUMMARY.** The Finance Director is authorized and directed to publish the attached summary in lieu of this ordinance.

**PASSED and APPROVED** this \_\_\_ day of August, 2015.

\_\_\_\_\_  
Bill Simpson, Mayor

**ATTESTED:**

\_\_\_\_\_  
Kathryn Skolrood, Finance Director