

ORDINANCE NO. 587

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, CONCERNING THE LICENSING OF BUSINESSES AND BUSINESS ACTIVITY IN THE CITY OF WOODINVILLE AND THE REPEAL AND RE-ENACTMENT OF CHAPTER 5.02 OF THE WOODINVILLE MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION BY TITLE ONLY.

WHEREAS, Chapter 5.02 of the Woodinville Municipal Code ("WMC") currently provides for a program of registration of businesses activity in the City of Woodinville and the City Council has determined that the registration program should be replaced by the required licensing of business activity in the City of Woodinville as is common in most cities throughout the Puget Sound Area and the State of Washington; and

WHEREAS, the City Council has also determined upon recommendation of the Administration that the City should contract with the State of Washington Department of Revenue Business License Service ("Service Provider") for Business License Services and the Administration of business licensing by the City under a Business Licensing Services Agreement substantially in the form provided in Attachment A hereto; and

WHEREAS, the Service Provider will be unable to commence such services for the City of Woodinville until early 2015 the City Council upon recommendation of the Administration has determined that the existing registration program in Ch. 5.02 remain in effect through calendar year 2014 and that the new licensing regulations provided for in this ordinance Section 2 will become effective January 1, 2015 and implemented as soon thereafter as agreement by the City and the Service Provider permits;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repeal of Chapter 5.02. Chapter 5.02 of the WMC is hereby repealed in its entirety on January 1, 2015.

Section 2. Re-enactment of new Chapter 5.02. Repealed Chapter 5.02 of the WMC is hereby re-enacted to read as set forth below on January 1, 2015. The provisions of Chapter 5.02 shall be administered by the City in part through a Business Licensing Services Agreement with the Washington State Department of Revenue Business License Service.

Sections:

- 5.02.010 Chapter and purpose.
- 5.02.020 Definitions – General.
- 5.02.030 Business license required – Posting.
- 5.02.040 Exempt from the City fee
- 5.02.050 Nonprofit businesses and organizations.
- 5.02.060 Program application and renewal.
- 5.02.070 License term or expiration.
- 5.02.080 Fee.
- 5.02.090 Late renewal.
- 5.02.100 License denial or revocation.
- 5.02.110 Violation – Civil infraction, enforcement.

5.02.120 Rules and rulings.

5.02.010 Chapter and purpose.

The primary purpose of the City's Business License Program is for regulatory purposes to ensure that businesses are authorized and permitted in the proper zoning district. Additionally, for public safety and emergency purposes, the City requires current contact and operating information about each entity operating within its jurisdictional boundaries. Maintenance of current information with respect to business, trade, service, commercial and professional activities carried on within the City allows the City to carry out the duties and authorities delegated to it by the Washington State Constitution and the laws of the State of Washington as a noncharter code city. Such information can best be accumulated and maintained on a current basis through the establishment of a program for the license of such business activities. The business license program ("program") is hereby established to protect the public and promote economic development and not intended to benefit any individual or class.

5.02.020 Definitions – General.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section:

- A. "Business," "occupation" or "pursuit" means and includes all activities, occupations, trades, pursuits, professions, and matters located or engaged in within the City with the object of gain, benefit, or advantage to the applicant for business license or other person, directly or indirectly, whether part-time or full-time, whether resident or nonresident.
- B. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.
- C. "City" means the City of Woodinville, Washington.
- D. "Clerk" means such City employees or agents as the City Manager shall designate to administer this chapter, or any designee thereof.
- E. "Engage in," "engages in" or "engaged in" business means commence, conduct or continue in business, and also means the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
- F. "Person," "firm," or "corporation," used interchangeably in this chapter, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, canvasser, peddler, solicitor, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof.

5.02.030 Business license required – Posting.

- A. Any person or entity that engages in any business, occupation, home occupation or pursuit; including non-profit activities, in the City shall license that business with the City's program. To license under the program a person must submit an application in accordance with the procedures established by the City and pay the applicable license fee.
- B. A business located within the City must be licensed with the program.
- C. A business license shall be posted in a conspicuous location at the place of the business.

5.02.040 Exempt from the City fee

Fees adopted by resolution, pursuant to **5.02.080**, do not apply to:

- A. The performance of governmental or proprietary functions by any instrumentality of the United States, the State of Washington, or any political subdivision thereof, including City of Woodinville sponsored civic events.
- B. The delivery of goods by vehicle to a customer or client by a business where the sale occurred on a business premises outside of the City and the only event occurring within the City is a delivery.

- C. Accredited public or private schools, colleges, or universities, as to their education endeavors only; churches and other religious bodies, as to their religious activities only; political groups and organizations as to their political activities only.
- D. Minors, a person under the age of 18, engaged in business or operating a business concern where no other person is employed by the minor.
- E. Casual or isolated sales.
- F. Where preempted by federal or State constitutions or laws.

5.02.050 Nonprofit businesses and organizations.

Organizations exempt from taxation under 26 USC 501(c)(3) and (4) must register under the business license program, but shall be exempt from paying the license fee. This shall not constitute an exemption from all other applicable taxes and fees, including administration and renewal fees established by the State of Washington, pursuant to RCW 19.02.075. Such organization must be able to show satisfactory proof of such status to the City.

5.02.060 Program application and renewal.

- A. A person shall register a business with the program by submitting an application in accordance with the procedures established by the City, in coordination with the clerk, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter.
- B. If a business is located at two or more separate locations within the City, a separate business license shall be required for each business.
- C. If more than one business is conducted or operated on premises, a separate business license shall be required for each business that meets the requirements for business license. Each business owner must separately register a business with the program.
- D. A business license is transferable. A person engaged in business within the City shall notify the clerk of a change of business location within 30 days of the location change or by the next license renewal date, whichever date occurs first.
- E. A person who has registered a business under the City's program shall renew the license on an annual basis, in the same manner as the original application for license including payment of fees.
- F. A person engaged in business within the City must comply with all applicable City ordinances and code provisions, and State and federal laws.

5.02.070 License term or expiration.

A business license shall be valid for a term of 12 months, unless otherwise established, and shall expire on the date determined by the City.

5.02.080 Fee.

The fee to register with the City's program, or renew such license, shall be as set forth in a fee resolution adopted by the City Council.

5.02.090 Late renewal.

Each business license issued must be renewed annually on or before the expiration date, or expiration of any prorated period. Failure to renew a business license by the expiration date may result in an increase in the amount of the renewal fee by 50 percent.

5.02.100 License denial or revocation.

- A. An application for license required under this chapter may be denied or revoked by the City based on any of the grounds provided below:
 - 1. If the person who obtains the license or any of the business officers, directors, agents, owners or employees of the business fail to comply with the requirements of this chapter.

2. If a person procures license by fraud or misrepresentation of fact, or the person who obtains the license or any of the business officers, directors, agents, owners or employees of the business obtain license so as to practice some illegal act or some act injurious to the public health, safety and welfare.

3. Whenever a person fails or refuses to pay the license or renewal fee.

B. The City shall not deny or revoke a business license without cause.

5.02.110 Violation –enforcement.

A. A violation of this chapter shall constitute a violation of this code and subject to the provisions of Chapter 1.03 “General Penalties”, and Chapter 1.06 “Civil Infraction”.

5.02.120 Rules and rulings.

The City Manager may, from time to time, adopt, publish and enforce rules and regulations not inconsistent with this chapter or with State law. The purpose of such rules and regulations is to carry out the provisions of this chapter. The City Manager may also issue letter rulings from time to time which are applicable only to specific businesses. Such administrative rulings shall be binding on the City and the applicable business.

Section 3. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 4. Effective Date and Summary Publication. This ordinance shall become effective five days after passage and publication. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date by publication of the ordinance title.

ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 3RD DAY OF JUNE 2014.


Bernard W. Talmas, Mayor

ATTEST/AUTHENTICATED:


Jennifer Kuhn
City Clerk/CMC

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

Greg Rubstello, City Attorney

PASSED BY THE CITY COUNCIL: 06-03-2014
PUBLISHED: 06-09-2014
EFFECTIVE DATE: 06-16-2014
ORDINANCE NO. 587

DOR Contract Number: _____

- Maintain electronic or microfilm images of all paper documents and electronic representations of electronic filings received by Revenue from applicants and provide copies or certified copies as requested.
- Maintain a database containing information received from applicants and licensees (the BLS Database).
- Provide technical assistance to establish and configure appropriate BLS Database access and secure access for Partner staff.
- Provide initial training to Partner staff in the use of the BLS Database, and ongoing training to address changes to the BLS database/access protocols or in Partner staff. Training will occur at Partner's location, over the telephone, or online, as agreed upon by the parties.
- Effect reasonable modifications in the BLS system, database, process, or forms to accommodate Partner's licensing or other regulatory requirements. Revenue will consult with Partner in evaluating alternatives and determining the most feasible and timely means of achieving Partner objectives.
- Timely notify Partner of other modifications to the BLS system, database, process, or forms, including modifications accommodating other BLS partners.

V. Partner obligations

- Timely provide Revenue with all information requested to complement Partner's participation in the BLS program.
- Follow all requirements identified by Revenue as necessary for participation in the BLS program, including using:
 - The Business License Application and other forms and processes established by Revenue;
 - The "Business License" document as proof of licensure under Partner's licensing or regulatory program.
 - The Unified Business Identifier (UBI) number to identify licensees and license accounts in all communications with Revenue.
- Obtain, at its own cost, all necessary equipment and on-line services required at Partner's business location to support Partner's access into and use of the BLS Database. End-to-end testing will take place until such time as Revenue is satisfied.
- Ensure Partner Licensing and Information Technology staff are available to respond promptly to Revenue. Partner staff will be knowledgeable of Partner operations and/or technology and be able to assist Revenue staff with process improvements and/or troubleshooting.
- Provide timely advance notice to Revenue of potential changes to Partner business licensing requirements, fees, or processes.
- Upon request by Revenue, provide statistical data associated with the BLS Partner Partnership Agreement such as Full Time Equivalent (FTE) savings, change in number of Partner licensees, and change in revenue flow.

VI. Compensation

Services identified in this Agreement are provided by Revenue at no charge with the exception of the following:

DOR Contract Number: _____

- Partner shall reimburse Revenue for all fees charged by credit card processors and/or financial institutions upon any funds charged, collected, or refunded by Revenue in processing applications and /or collecting fees related to Partner's licensing or other regulatory activities.
- Partner shall reimburse Revenue the costs of developing and producing ad hoc informational reports. Ad hoc reports will be created only if requested by the Partner and agreed-upon by Revenue.
- Partner shall reimburse Revenue's expenses for the implementation of changes to the BLS process, if requested by the Partner and agreed-upon by Revenue.
- All project coordination costs, including travel-related expenses, shall be absorbed by the respective parties for their own staff.
- The Partner shall reimburse Revenue for Partner's share of making the charges from the Department of Enterprise Services. Partner's share includes the inquiry/entry charge for access and usage of the BLS system, costs required to transmit Web-based reports, and costs associated with ad hoc reports requested (if any).

VII. Billing procedures.

Partner will provide and maintain with Revenue its current billing addresses and the personnel, if any, to whom invoices should be directed. Revenue shall submit invoices to Partner as-needed, but in no event more frequently than monthly. Partner shall pay all invoices by check or account transfer within thirty (30) calendar days of the invoice issue date. Upon expiration or termination of this Agreement, any claim for payment not already made shall be submitted within ninety (90) calendar days after the expiration/termination date or the end of the calendar year, whichever is earlier.

VIII. Confidentiality and data sharing.

The parties agree to the confidentiality and data sharing provisions set forth in Exhibit A and incorporated herein by this reference.

IX. Term and Termination.

This agreement is effective until terminated. Either party may terminate this Agreement upon ninety (90) calendar days written notice to the other party.

X. Disputes.

The parties agree to participate in good faith mediation to resolve any disputes that are not otherwise resolved by agreement, prior to any action in court or by arbitration. At any time, either party may initiate formal mediation by providing written request to the other party setting forth a brief description of the dispute and a proposed mediator. If the parties cannot agree upon a mediator within fifteen (15) calendar days after receipt of the written request for mediation, the parties shall use a mediation service that selects the mediator for the parties. Each party shall be responsible for one-half of the mediation fees, if any, and its own costs and attorneys' fees.

XI. Miscellaneous.

- A. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement must be commenced in Thurston County, Washington.
- B. **Interpretation.** This Agreement shall be interpreted to the extent possible in a manner consistent with all applicable laws and not strictly for or against either party.

DOR Contract Number: _____

- C. **No Waiver.** The failure of either party to enforce any term in any one or more instance will not be construed as a waiver or otherwise affect any future right to insist upon strict performance of the term. No waiver of any term of this Agreement shall be effective unless made in writing and signed by personnel authorized to bind the party against whom enforcement is sought.
- D. **Assignment and Delegation.** Either party may assign any right or interest, or delegate any duty or obligation, arising under this Agreement upon thirty (30) days written notice to the other party.
- E. **Severability.** If any provision of this Agreement is held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement shall be given effect to the extent consistent with applicable law and the fundamental purpose of this Agreement.
- F. **Survival.** Terms of this Agreement which by their nature would continue beyond termination will survive termination of this Agreement for any reason, including without limitation, Sections 3 through 7 in Exhibit A.
- G. **No third party beneficiaries.** This Agreement is for the benefit of the parties and their successors and may not be enforced by any non-party.
- H. **Amendments.** No amendment to this Agreement is enforceable unless made in writing and signed by personnel authorized to bind the party against whom enforcement is sought.
- I. **Merger and integration.** This Agreement contains the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist to bind any of the parties.
- J. **Changes in law.** The provisions of the Agreement shall be deemed to change in a manner that is consistent with any changes to any directly applicable statutory authority, provided that the change is consistent with the manifest intent of the Agreement and does not conflict with any of its express provisions. Such changes to the Agreement shall be effective on the effective date of the change in authority.

IN WITNESS WHEREOF, this Agreement is executed effective as of the date specified above.

State of Washington
Department of Revenue
Business Licensing Services

Partner

Date

Date

Template approved as to form

Approved as to form

ON FILE

Rebecca Glasgow,
Assistant Attorney General for Washington State

Date

DOR Contract Number: _____

EXHIBIT A
CONFIDENTIALITY AND DATA SHARING

1. Purpose and Scope

The following provisions establish the terms under which Revenue and Partner will share Confidential Licensing Information pursuant to the BLS Agency Partnership Agreement (the "Agreement").

2. Definitions

"Confidential Licensing Information" has the same meaning as "Licensing Information" under RCW 19.02.115(1) (b) and includes, but is not limited to, any information included in the master applications, renewal applications, and master licenses under the business licensing system program. Confidential Licensing Information is classified as at least Category 3 data under Washington's Standard for Securing Information Technology Assets, OCIO Standard No. 141.10.

3. Confidentiality

Partner and Revenue each agree to keep confidential and secure from unauthorized use, access, or disclosure, all Confidential Licensing Information received under the Agreement.

- A. **Ensuring Security:** Partner and Revenue shall each develop and implement physical, electronic, and managerial policies, procedures, and safeguards to ensure that all Confidential Licensing Information received by it under the Agreement is secure from unauthorized use, access, or disclosure.
- B. **Electronic Security:** Partner's electronic security policies, procedures, and safeguards must be at least as stringent as those set forth in Washington's Standard for Securing Information Technology Assets, OCIO Standard No. 141.10 as amended from time to time.
- C. **Proof of Security:** Revenue reserves the right to monitor, audit, or investigate Partner's security policies, procedures, and safeguards for Confidential Licensing Information. Partner agrees to provide information or proof of its security policies, procedures, and safeguards as reasonably requested by Revenue.

4. Statutory Prohibition Against Disclosure: Secrecy Affidavit

- A. **Official Sanctions:** RCW 19.02.115 prohibits the disclosure of Confidential Licensing Information, except as expressly authorized by RCW 19.02.115. It is a misdemeanor for any person acquiring Confidential Licensing Information under this Agreement to disclose such information in violation of the disclosure limitations stated in RCW 19.02.115. Additionally, if the person is a state officer or employee, the person must forfeit such office or employment and is incapable of holding any public office or employment in Washington for a period of two years thereafter.
- B. Partner will require employees with access to Confidential Licensing Information to sign a copy of the secrecy affidavit attached at Exhibit B.

5. Authorized Use, Access, and Disclosure

- A. **Permitted Uses:** Confidential Licensing Information may be used for official purposes only.
- B. **Permitted Access:** Confidential Licensing Information may be accessed only by Partner's employees and agents that have a bona fide need to access such information in carrying out their official duties.
- C. **Permitted Disclosure:** Confidential Licensing Information received under the Agreement must not be disclosed to non-parties unless the disclosure is:
 - permitted under an express disclosure exception in RCW 19.02.115;

DOR Contract Number: _____

- ordered under any judicial or administrative proceeding; or
 - otherwise expressly authorized by Revenue in writing.
- D. **Public Records Requests:** In the event that Partner reasonably believes that it must disclose information pursuant a Public Records Request, and Partner is prohibited from disclosing such information under the terms of this Agreement, Partner must give notice to DOR of its intention to disclose. The notice shall be provided at least 14 business days in advance of disclosure, the notice shall contain a copy of the public records request, and the notice shall reasonably identify the information that Partner believes is prohibited from disclosure under this Agreement.

6. Breach of Confidentiality

In the event of any use, access, or disclosure of by Partner or its employees or agents in material violation of the confidentiality terms of this Agreement:

- A. Partner shall notify Revenue in writing as soon as practicable, but no later than three working days, after determining that a violation has occurred.
- B. Revenue may immediately terminate this Agreement and require the certified return or destruction of all records containing Confidential Business Information, however, Revenue shall provide Partner with an electronic record containing all information collected for Partner's licensing or other regulatory activities on an electronic medium.

7. Ownership and Retention of Records

Records furnished to Partner on any medium remain the property of Revenue. However, except as otherwise expressly provided in this Agreement, Partner may retain possession of all such records in accordance with its own electronic information and document retention policies.

****end*****