

## ORDINANCE NO. 1602

### **AN ORDINANCE OF THE CITY COUNCIL OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, REPEALING AND REPLACING CHAPTER 5.08 OF THE BONNEY LAKE MUNICIPAL CODE AND THE CORRESPONDING PORTIONS OF ORDINANCE NO. 1514 RELATING TO BUSINESS LICENSES**

**WHEREAS**, during the 2017-18 legislative session, the Washington state legislature passed Engrossed House Bill 2005, now codified in chapter 35.90 RCW; and

**WHEREAS**, RCW 35.90.080 provides that any city that requires a general business license of any person engaging in business activities within that city must adopt model ordinance language developed by the Association of Washington Cities; and

**WHEREAS**, the City Council desires to amend Title 5 of the Bonney Lake Municipal Code to comply with the legal requirements in chapter 35.90 RCW, and to better reflect the City's current processes for business licensing.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** Chapter 5.08 of the Bonney Lake Municipal Code is hereby repealed in its entirety and replaced with the following:

#### **5.08.010 Purpose - Revenue License Power**

The purpose of this chapter is to provide a means for obtaining public information and compiling statistical information on existing and new business within the City, to regulate and ensure the legal conduct of businesses, and to assist in the effective administration of the health, fire, building, zoning, and other codes of the City. The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue.

#### **5..08.020 Definitions.**

In construing the provisions of this chapter, except when otherwise declared, or clearly from the context a different meaning is intended, the following definitions shall be applied:

A. "Engaging in business" (1) The term "engaging in business" means commencing, conducting, or continuing in business, and also 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.

(2) This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria

may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection 1. If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

(3) Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker, or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

(a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

(b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

(c) Soliciting Sales.

(d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

(e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

(f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.

(g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

(h) Collecting current or delinquent accounts.

(i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

(j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

(k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

(l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

(m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

(n) Investigating, resolving, or otherwise assisting in resolving customer complaints.

(o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

(p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

(4) If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.

(a) Meeting with suppliers of goods and services as a customer.

(b) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

(c) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

(d) Renting tangible or intangible property as a customer when the property is not used in the City.

(e) Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.

(f) Conducting advertising through the mail.

(g) Soliciting sales by phone from a location outside the City.

(5) A seller located outside the City merely delivering good into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

(6) The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generated contact or subsequent contacts.

B. "Person" means any individual, firm, partnership, company, corporation, association, receiver, consignee, trustee in bankruptcy, trust, estate, joint venture, club, joint stock company, business trust, society or any group of individuals acting as a unit.

C. "Employee" means any person employed at any business location within the city and in addition includes all persons who are self-employed.

**5.08.030 License - Required.**

A. No person shall engage in business activity in the City without first having obtained a valid license to do so. Application for a license is made by submitting an application and city addendum form to the Business License Service of the State Department of Revenue. The application shall include payment of the license fee prescribed by this chapter, and the Business License Service handling fee. Every license granted under this chapter shall be posted in a conspicuous place in the place of business of the licensee. Any license issued under this chapter shall be personal and nontransferable. In case business is transacted at two or more separate places by one licensee, a separate license for each place of business shall be required. A change of place of business shall require the filing of a new application with the Business License Service and, upon approval by the City of the new place of business, a new license shall be issued for the new place of business.

B. Notwithstanding any contrary provision, a business license under this chapter may not be issued to any person using or occupying any real property in violation of the provisions of the Bonney Lake Municipal Code, including zoning, building, and fire regulations and all amendments thereto.

C. Licenses granted under this chapter are nontransferable and may not be transferred to the new owner when a licensed business changes ownership.

**5.08.040 Exemptions.**

A business license shall not be required for:

A. Any activities of a temporary nature, such as contests, circuses, shows, auctions or other business licensed under another ordinance of the city;

B. Any agency of the United States, the State of Washington or political subdivision thereof;

C. Nonprofit associations, clubs, or corporations maintained for the purpose of organized sports, charity, public school-related activities, or municipal-related activities, including police or fire department reserve organizations;

D. Vendors not otherwise engaged in business in the city who rent a booth or space, or are otherwise a participant, at a city-sanctioned or sponsored event such as Bonney Lake Days;

E. Minors doing business or operating a business concern where no other person is employed by the minor, such as babysitting or lawn mowing.

F. Individual real estate agents, provided that the brokerage has a business license.

G. Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the City is equal to or less than \$2,000 and who does not maintain a place of business within the City shall be exempt from the general business license requirements in this chapter. This exemption does not apply to regulatory license requirements or activities that require a specialized permit. The business license fee shall not be refundable in the event a business licensed pursuant to this Subsection unexpectedly earns less than the \$2,000 threshold.

#### **5.08.050 Payment of fees - License term or expiration**

A. The fee for the license required by this chapter shall be \$60.00. Each annual license fee herein provided for shall become due and payable on the date established by the Business License Service. The annual license fee amount may be prorated to accommodate setting an expiration date for a license that matches the expiration date established for the business by the Business License Service.

B. Each City license issued shall have a term as determined by the State of Washington Department of Revenue in cooperation with the City. The City license term or expiration date will be coordinated with the terms or expiration date of all other licenses or permits required by the state for each business.

#### **5.08.060 Additional endorsements and license fees.**

A. The license fee levied under this Chapter shall be additional to any license fee or tax imposed or levied under the law or any ordinance of the City.

B. Alarm business license endorsement

(1) For purposes of this section, "alarm business" means any business engaged in the selling, leasing, installing of or responding to security alarms, as defined in Chapter 8.48 BLMC. Alarm businesses also include any person, business or organization that monitors security alarm systems and initiates alarm dispatch requests, including units or divisions of larger businesses or organizations that provide proprietary security alarm monitoring services only to affiliates of the parent business or organization.

(2) All alarm businesses engaged in the business of selling, leasing, installing, responding to, or monitoring security alarms to individuals and businesses within the city of Bonney Lake shall obtain an alarm business license endorsement from the city, regardless of whether they are otherwise required to have a city business license.

(3) Alarm businesses must complete the license endorsement application form available from the city's finance department and pay an annual license fee of \$10.00 for every alarm site within the city of Bonney Lake, up to a maximum of \$500.00. Failure to pay the annual license fee within 30 days of notification shall result in a \$25.00 late fee. Upon applying for a license endorsement, and prior to each annual renewal, the alarm business shall provide the city with a list of current customers owning or operating alarm systems within the city limits.

(4) No alarm business shall presume, anticipate, or expect that emergency response will result solely from the activation of any security alarm system sold, leased, installed, or monitored by an alarm business that lacks an endorsement from the city.

(5) Alarm businesses shall not market, sell, install, or monitor alarm systems that fail to comply with all requirements of Chapter 8.48 BLMC.

(6) Alarm businesses shall cooperate fully with the alarm administrator in enforcing the provisions of the city's false alarm ordinance, Chapter 8.48 BLMC. Cooperation shall include, but not be limited to, answering the alarm administrator's requests for customer lists, alarm call data, the identity of each alarm business's alarm response manager, and other information in a prompt manner; facilitating the alarm administrator's efforts to issue permits to alarm systems in existence prior to the effective date of the ordinance codified in this section, and notifying the alarm administrator of new and disconnected accounts.

(7) Failure to comply with this Chapter and cooperate with the alarm administrator may constitute grounds for penalties under BLMC 5.08.070, and/or revocation of the alarm business's endorsement. Alarm businesses shall cooperate fully with requests for specific methods of communicating dispatch requests, including use of enhanced call verification (a minimum of two telephone calls attempting to reach a responsible party prior to notification of a dispatcher).

#### **5.08.070 Authority of the City – Violations – Enforcement - Penalties**

A. The City shall have the authority to enforce the provisions of this chapter with appropriate action, including but not limited to revocation or nonrenewal of a business license issued under this chapter.

B. Any person engaged in business as defined in this chapter without having its business license shall be guilty of a violation of this chapter for any day during which such person is so engaged in business.

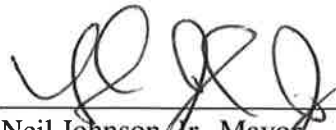
C. Violation of this Chapter shall constitute a misdemeanor.

**Section 2. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.


**Section 3. Savings clause.** Title 5 of the Bonney Lake Municipal Code shall remain in full force and effect until such date as this ordinance becomes adopted.

**Section 4. Effective date.** This ordinance shall take effect thirty (30) days after its passage, approval, and publication as required by law.

**PASSED** by the City Council and approved by the Mayor this 9<sup>th</sup> day of October, 2018.

  
Neil Johnson, Jr., Mayor

AUTHENTICATED:

  
Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM:

  
Kathleen Haggard, City Attorney

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