CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 696

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING SECTION 3.11.030 OF THE BURIEN MUNICIPAL CODE TO UPDATE WITH NEW MANDATORY MODEL LANGUAGE

WHEREAS, the Washington State Legislature passed EHB 2005 (RCS 35.90) requiring that cities form a workgroup to create a model business license with a licensing threshold; and

WHEREAS, EHB 2005 also requires all cities to adopt the model language by December 31, 2018; and

WHEREAS, cities that do not adopt the model language by January 1, 2019 will not be able to continue to collect business and occupation taxes,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, DOES ORDAIN AS FOLLOWS:

Section 1. Section 3.11.030 of Chapter 3.11 of the Burien Municipal Code (BMC) is hereby amended to read as follows:

Engaging in Business.

(a) 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.

(b) 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 or pay city business and occupation taxes. The activities listed in this definition are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection (a) of this definition. 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.
(c) 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:

(i) 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.

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

(iii) Soliciting sales.

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

(v) 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.

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

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

(viii) Collecting current or delinquent accounts.

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

(x) 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.

(xi) 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, and veterinarians.

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

Investigating, resolving or otherwise assisting in resolving customer complaints.

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.

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

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.


CITY OF BURIEN

[Signature]

Jimmy Matta, Mayor
ATTEST/AUTHENTICATED:

Monica Lusk, City Clerk

Approved as to form:

Lisa Marshall, City Attorney

Filed with the City Clerk: December 3, 2018
Passed by the City Council: December 3, 2018
Ordinance No.: 696
Date of Publication: December 6, 2018
CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 702

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, AMENDING SECTION 5.05.092 OF THE BURIEN MUNICIPAL CODE TO UPDATE WITH NEW MANDATORY MODEL LANGUAGE

WHEREAS, the Washington State Legislature passed EHB 2005 (RCS 35.90) requiring that cities form a workgroup to create a model business license with a licensing threshold; and

WHEREAS, EHB 2005 also requires all cities to adopt the model language by December 31, 2018; and

WHEREAS, cities that do not adopt the model language by January 1, 2019 will not be able to continue to collect business and occupation taxes, and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, DOES ORDAIN AS FOLLOWS:

Section 1. Section 5.05.092 of Chapter 5.05 of the Burien Municipal Code BMC is hereby amended to read as follows:

5.05.092 Exemptions – Fee waiver.
The licensing provisions of this chapter shall apply to the following persons and organizations; however, the business license fees shall be waived for:

(1) Any person or organization engaged in a not-for-profit (i.e., nonprofit) enterprise, either regularly or temporarily, when it is without private profit, for a public, charitable, funding-raising, educational, literary, fraternal, or religious purpose when such persons sufficiently demonstrate their not-for-profit status through Internal Revenue Service documentation or other means acceptable to the city manager or designee; and

(2) For purposes of the license by this chapter, 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 submit a business license registration to the Director or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.
Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.


CITY OF BURIEN

[Signature]
Jimmy Matta, Mayor

ATTEST/AUTHENTICATED:

[Signature]
Monica Lusk, City Clerk
Approved as to form:

Lisa Marshall, City Attorney

Filed with the City Clerk: December 3, 2018
Passed by the City Council: December 3, 2018
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