**CITY OF ILWACO**

**ORDINANCE NO. 2018-882**

**AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, AMENDING ORDINANCE NOS. 692 AND 786 AND CHAPTER 5.04 OF THE ILWACO MUNICIPAL CODE (IWC) REGULATING BUSINESS LICENSES.**

**WHEREAS,** RCW 35.27.370(9) Revised Code of Washington (RCW) provides for the City Council to have the authority to set business license fees by resolution andthe City of Ilwaco established by Resolution #2009-15, and codified by Ordinance No. 786 into Chapter 5 of the Ilwaco Municipal Code (IMC), an annual minimum business license fee of $125.00 for ALL businesses conducting business in Ilwaco, whether the business has a physical location in the City or not and regardless of annual revenue; and

**WHEREAS,** per Engrossed Hand Bill (EHB) 2005 – RCW Chapter 35.90, cities that partner with Washington State Business Licensing Services (“BLS”), such as Ilwaco, and impose a general business license must adopt one of two mandatory provisions of the model ordinance, along with the model definition of “engaging in business,” by January 1, 2019; and

**WHEREAS,** Ilwaco City Council has chosen the “Threshold with Fee-Free License/Registration-Only” option, which provides that 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 $2,000.00 and who does not maintain a place of business within the city, shall submit business license registration to Washington State Business Licensing Services (BLS) to obtain a “fee-free” license; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ILWACO, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1.

Chapter 5.04.020 is amended to read as follows:

5.04.020 Definitions.

The following words and phrases used in this chapter, shall be construed as follows:

“Business” means all activities, occupations, trades, pursuits, profession and matter located within the city’s jurisdiction, operated with the object of gain, profit, or nonprofit, to the business or person, directly or indirectly.

“Engage in business” ~~means to commence, conduct or continue in any business. Also, the exercise of corporate or franchise powers, as well as liquidating a business where the liquidators thereof hold themselves up to the public as conducting such business.~~ shall have the definition as set forth in IMC Chapter 3.18.040.

“Person” means any individual, firm, partnership, joint venture, company, association, or any group of individuals acting as a unit, whether cooperative, fraternal, nonprofit or otherwise. (Ord. 692 § 2, 2004).

Section 2.

Chapter 5.04.030 is amended to read as follows:

5.04.030 Business license required.

It is unlawful for any person to engage in any business in the city without having first been approved for ~~obtained~~ a business license from the city. If more than one separate business is conducted on single premises, a separate license shall be required for each such business. If a business actively operates from more than one location in the city, a separate license shall be required for each location. (Ord. 692 § 3, 2004)

Section 3.

Chapter 5.04.050, Application Procedure, is amended to read as follows:

5.04.050 Application procedure.

~~An application form must be completed in full and returned to city hall. The person who intends to engage in business for which the license is to be issued shall sign each application. The form shall state the nature of the business, its proposed address and telephone number, the names and addresses of all owners of the business (or their registered agent), and such other information as may be required by the city clerk. If the city clerk finds the application to be correct, the clerk shall, upon payment of the fee, issue a license.~~ Any business wishing to engage in business activities in the City of Ilwaco, must apply for their business license and pay fees, if required, through Washington State Business Licensing Services (BLS). Business licenses shall be ~~issued~~ approved at the discretion of the city clerk, except business relating to variance, liquor, firearms and pawnshops. These will need authorization from the council of the city of Ilwaco. The license shall be personal and nontransferable. Each license shall at all times be conspicuously posted in the place of business for which it is issued. Where a location address of a business is changed, the business shall ~~return the license to the city clerk and a new license shall be issued for the new place of business, free of charge. (Ord. 692 § 5, 2004)~~ notify BOTH the city clerk and BLS and comply with their requirements.

Section 3.

Chapter 5.04.060, Fee Schedule, is amended to read as follows:

**5.04.060 Fee Schedule.**

**A.** The annual fee for each business per fiscal year shall be set forth by resolution of the city council.

**B. Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the City of Ilwaco is equal to or less than $2,000.00 and who does not maintain a place of business within the City of Ilwaco shall still be required to obtain a business license as established herein, but shall not be subject to a license fee. However, if it at any time during the year the value of products, gross proceeds of sales, or gross income in the City of Ilwaco of a person or business that is engaged in business under such “fee-free” license exceeds $2,000.00, that person shall submit the fee required by the applicable resolution.**

Vendors’ displays and mobile units are not allowed on public property or streets. (Ord. 786 § 1, 2011; Ord. 692 § 6, 2004)

Section 4.

Chapter 5.04.120, Duties of the Clerk, is amended to read as follows:

5.04.120 Duties of the city clerk.

The city clerk shall keep full and accurate records of all ~~funds received and disbursed under the provisions of this chapter~~ business licenses issued.

It shall be the duty of the city clerk to require all parties engaging in any business activity to procure such license, and should there be any license fee not paid by any person or business, it shall be the duty of the city clerk to enforce collection thereof in the manner provided in this chapter. (Ord. 692 § 12, 2004)

Section 5. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 6. Referendum and Effective Date. This Ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect and is in full force five (5) days after its passage, approval and publication of an approved summary of the title as provided by law.

**Passed by the City Council of the City of Ilwaco, AND SIGNED IN AUTHENTIFICATION OF ITS PASSAGE this 24th day of September, 2018.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Gary Forner, Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Stephanie Davis, City Clerk

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| VOTE | Oakes | Bageant | Sprague | Lessnau | Mathison | Forner |
| Ayes | X | X | X | X | X |  |
| Nays |  |  |  |  |  |  |
| Abstentions |  |  |  |  |  |  |
| Absent |  |  |  |  |  |  |

PUBLISHED: October 3, 2018

EFFECTIVE: October 8, 2018