

Subject: Ordinance Nos. 1507, 1508, 1509, 1510, 1511 – Update of City Business Licensing Code

Dept. Origin: Mayor’s Office
Prepared by: Jennifer Robertson, City Attorney’s Office
For Agenda of: September 4, 2018
Exhibits: Ordinance Nos. 1507, 1508, 1509, 1510 & 1511 Master Fee Resolution #690

Proposed Council Action:

This is on for Second Reading. Adopt Ordinance Nos. 1507, 1508, 1509, 1510 And 1511.

	Initial & Date
Concurred by Mayor:	_____
Approved by City Planner:	_____
Approved as to form by City Atty:	<u>JSR 8-30-18</u>
Approved by Finance Director:	_____
Approved by Department Head:	_____

INFORMATION / BACKGROUND

State law requires all cities with business licensing to update codes by the end of the year as set forth below.

Business license and city B&O tax simplification.

In the 2017 session, EHB 2005 (RCW 35.90) passed requiring three actions by cities with business licenses and local B&O taxes. This law does the following:

1. Requires cities with business licenses to establish a workgroup to create a model business license with a licensing threshold by July 2018 for adoption by all business license cities by January 1, 2019;
2. Requires all cities with business license to administer their business license through the state’s Business Licensing System (BLS) by 2022 or FileLocal by 2020; and
3. Establishes a task force on local B&O tax service apportionment under RCW 35.102.130 to report to the Legislature by October 2018.

Final model ordinance for local business licenses – minimum threshold.

Cities were required to develop a model ordinance for business licensing by July 1, 2018. The ordinance includes a mandatory definition of “engaging in business” and a minimum threshold (or occasional sale) exemption to establish when out-of-town or transient businesses are required to be licensed. All business license cities must adopt it by the end of the year (RCW 35.90.080).

What is in the model?

The model threshold has two pieces: a model threshold and a definition of “engaging in business.”

1. The model business license threshold language would:
 - a. Apply a minimum threshold of \$2,000 per year in the city for businesses that do not have a location in the city;
 - b. Require a license for businesses with a location in the city without regard to the threshold;
 - c. Allow cities the option to require registration with no fee for businesses under the threshold; and
 - d. Only apply to general business licenses, not regulatory licenses or local taxes.
2. The definition of “engaging in business” includes examples of what constitutes business activities in cities that would subject a business to license requirements, as well as those activities that would not. The model language is adapted from the definition that the 45 cities with local B&O taxes have already adopted for the definition of “engaging in business” in the B&O tax model ordinance.

What are the deadlines for all cities with business licenses to adopt the model?

Cities with a business license must adopt the model by January 1, 2019. However, cities that currently partner with the state’s Business Licensing Service (BLS) for business licensing administration have a deadline of October 17, 2018, because they must provide BLS 75-day notice of any changes to their business licenses (including this mandatory change).

The City is already using the State to administer its business licenses. Thus the deadline is October 17, 2018.

Revisions to the Ruston code.

As the City started reviewing its business licensing code in order to comply with the state-mandated update, it became clear that the City’s code is in need of a major overhaul as it was quite out of date and lacking many procedures (such as revocation and appeal procedures) that are found in most business licensing codes. The City used the Tacoma Business Licensing Code as a model for many of the new chapters. Tacoma’s code, however, has many more additional chapters that were not included in the new ordinances either because Ruston deals with those issue already (i.e. adult entertainment, alarms permits) or because these are things the City has never specifically licensed with special licenses (i.e. food trucks, sign erectors, scrap metal dealers, gambling, septic and side sewer contractors) and thus any of these businesses would be covered under the general business license. The five ordinances addressed in this package of amendments are:

ORD #	Chapter Name/Number	Purpose
1507	Chapter 5.05 – General License Provisions	General provisions for business licensing code
1508	Chapter 5.05A – Annual Business License	Requirements for an annual business license

1509	Chapter 5.05B – Sales – Door-to-Door Soliciting	Sets forth requirements for certain door to door sales
1510	Chapter 5.05C – Temporary Business License – Sales or Shows	Sets forth requirement for occasional or special event business licensing
1511	Chapter 5.05D – Short Term Rental License	Set forth the procedures and requirements for short term rental uses (i.e. AirBnB and the like)

Ordinance No. 1511 is a new type of license to Ruston. At the time the business license code was being re-drafted, the Planning Commission was taking up zoning regulations for short term rentals in the City. Therefore the drafting of the new Chapter 5.05D dovetails nicely timing-wise with the upcoming zoning code change to regulate this use.

Master Fee Resolution # 690.

Updating the licensing code also requires an update to the City’s Master Fee Resolution. The updated business license fees match what the City of Tacoma is charging and are found in Section 4 of the Master Fee Resolution. In addition, an update to the City’s overweight truck regulations in Chapter 16.07 will be forthcoming and these fees are contained in Section 7.

Deadline for adopting updates to business licensing code.

The last Council meeting in which the business license code updates required by the State can be adopted is October 16th as these need to be transmitted to the State no later than October 17th for collection starting on January 1, 2019. All of the new business license ordinances take effect on January 1, 2019.

FISCAL CONSIDERATION

The package of amendments to the business licensing code will result in additional licenses and the related licensing fees as set forth in Section 4 of the draft Master Fee Resolution.

RECOMMENDATION / MOTION

Adopt all business licensing ordinances and the Master Fee Resolution.

MOTION 1: I move to adopt Ordinance #1507 regarding business licensing, repealing and replacing Chapter 5.05 of the Ruston Municipal Code, establishing processes and procedures for business licensing in the City of Ruston.

MOTION 2: I move to adopt Ordinance #1508 regarding business licensing, creating a new Chapter 5.05A of the Ruston Municipal Code, establishing processes and procedures for annual business licensing in the City of Ruston.

MOTION 3: I move to adopt Ordinance #1509 regarding business licensing, creating a new Chapter 5.05B of the Ruston Municipal Code, establishing processes and procedures for business licensing for door to door sales in the City of Ruston.

- MOTION 4: I move to adopt Ordinance #1510 regarding business licensing, creating a new Chapter 5.05C of the Ruston Municipal Code, establishing processes and procedures for business licensing for temporary businesses, such as sales or shows, in the City of Ruston.
- MOTION 5: I move to adopt Ordinance #1511 regarding business licensing, creating a new Chapter 5.05D of the Ruston Municipal Code, establishing processes and procedures for business licensing for short term rentals in the City of Ruston.
- MOTION 6: I move to adopt Resolution #690 establishing fees for city services including certain business license fees, permit fees, electrical installation fees, engineering and plan review fees, and miscellaneous fees, and repealing resolution #664.

ORDINANCE NO. 1508

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, REGARDING BUSINESS LICENSING, CREATING A NEW CHAPTER 5.05A OF THE RUSTON MUNICIPAL CODE, ESTABLISHING PROCESSES AND PROCEDURES FOR ANNUAL BUSINESS LICENSING IN THE CITY OF RUSTON, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State is requiring all cities with business licenses to make certain updates to its business licensing codes and the deadline for adopting these revisions for Ruston is October 17, 2018; and

WHEREAS, the City deemed it in the best interests to fully update its licensing code, including adoption of several new chapters under subtitle 5.05, including this new Chapter 5.05A; and

WHEREAS, on August 21, 2018, the City Council held the first reading on this Ordinance; and

WHEREAS, on September 4, 2018, the City Council adopted this Ordinance during its regular meeting at second reading; **NOW, THEREFORE**

THE CITY COUNCIL OF THE CITY OF RUSTON HEREBY ORDAINS AS FOLLOWS:

Section 1. A new chapter is hereby added to the Ruston Municipal Code to read as follows:

**Chapter 5.05A
ANNUAL BUSINESS LICENSE**

Sections:

- | | |
|------------------|---|
| 5.05A.010 | License required. |
| 5.05A.020 | License fee. |
| 5.05A.030 | Date of payment. |
| 5.05A.040 | License required to be posted at each business location. |

5.05A.050 Statute of limitations – Unlicensed licensees.

5.05A.010 License required. It shall be unlawful for any person to engage in business activities within the City, whether his or her office or place of business is located within and/or outside City limits, without first obtaining a license pursuant to the provisions of this chapter. For purposes of this chapter, this license is referred to as an “annual business license.”

5.05A.020 License fee. Pursuant to Section 5.05A.010, there is hereby imposed an annual business license fee as set forth in the City’s Master Fee Resolution adopted by the City Council.

5.05A.030 Date of payment. The annual license fee prescribed herein shall be due on January 31 of each year. Effective January 1, 2019, licensees who engage in the business of renting or leasing real property in the City shall pay the annual license fee. The amount of penalties to be assessed shall be calculated pursuant to the provisions of RMC 5.05.090.

5.05A.040 License required to be posted at each business location. The business license 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 at which business is transacted with the public shall be required. Each license shall be numbered, shall show the name and place of the licensee, such other information as the Clerk shall deem necessary, and shall at all times be conspicuously posted in the place of business for which it is issued. When a place of business of the licensee is changed, the licensee shall return the license to the Clerk, and a new license shall be issued for the new place of business, free of charge. No person to whom a license has been issued pursuant this subtitle 5.05 shall suffer or allow any person for whom a separate license is required to operate under or display his or her license; nor shall such other person operate under or display such license.

5.05A.050 Statute of limitations – Unlicensed licensees. With regard to unlicensed licensees, no assessment or correction of an assessment for additional fees and penalties may be made due by the Clerk more than four years after the close of the calendar year in which they were incurred, except that the Clerk may issue an assessment:

- (a) Against a person who is not currently registered or has not filed a license as required by this title for fees due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the Clerk;
- (b) Against a person that has committed fraud or who misrepresented a material fact;
or
- (c) Against a person that has executed a written waiver of such limitations.

Section 2. Direction to Clerk. The Clerk is directed to send a copy of this Ordinance to the State Business Licensing Service at the Department of Revenue.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be 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. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 5. Effective Date. This Ordinance shall take effect on January 1, 2019, which is more than five days after publication as provided by law.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 4th day of September, 2018.

APPROVED by the Mayor this 4th day of September, 2018.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams
City Clerk

APPROVED AS TO FORM:



Jennifer S. Robertson
City Attorney's Office

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: 1508