

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. 1510

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, 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, 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 5.05C; 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 5.05C
TEMPORARY BUSINESS LICENSE – SALES OR SHOWS**

Sections:

- 5.05C.010 License required.**
- 5.05C.020 Definitions.**
- 5.05C.030 License fees.**
- 5.05C.040 Special event exclusions.**

5.05C.050 Exemptions
5.05C.060 Special event requirements.

5.05C.010 License required.

A. Show. It shall be unlawful for any person to operate, conduct, present or stage any temporary show without first obtaining a license pursuant to the provisions of this chapter.

B. Special event. It shall be unlawful for any person to act as a vendor in a temporary show without first obtaining the necessary vendor's license. Examples of temporary special events include, but are not limited to, trade shows, festivals, fairs, arts and crafts shows, farmer's markets, home shows, recreational vehicle shows, boat shows, or antique shows open to the public.

C. Transient stock. It shall be unlawful for any person to sell or offer for sale any transient stock of goods in the City without first obtaining a license pursuant to the provisions of this chapter.

5.05C.020 Definitions.

As used in this chapter, the following terms have the meanings indicated:

“Event” means any show in duration not more than ten consecutive days.

“Promoter” means any person engaged in the business of offering to any vendor, directly, or indirectly, sales areas within a special event location for the purpose of using such area during the term of the special event license.

“Sales area” means any stall, booth, stand, space, section, unit, or specified floor area within any special event location where goods or services are offered or displayed by a vendor for the purpose of sale, trade, barter, exchange or advertisement.

“Show” means any temporary public exhibition of entertainment, including, but not limited to, any circus, carnival, festival, motocross, motor sport, rodeo, trained animal show, dance performance, play, or other organized performances and/or exhibitions.

“Special event” means the congregation of a minimum of 15 vendors who are dealers, demonstrators, sellers or traders who rent, lease, purchase or otherwise obtain a sales area from a promoter for the purpose of selling, bartering, exchanging, trading or displaying goods or services.

“Special event location” means any area open to the public wherein vendors, dealers, sellers, traders or advertisers congregate for the purpose of participating in a special event.

“Temporary” means an event that is open to the public for a period not to exceed ten consecutive days.

“Transient stocks” means any stock of goods, wares or merchandise brought into the City temporarily for disposal, as distinguished from stocks of goods, wares and merchandise brought

into the City in connection with operation of a merchandising business permanently operated in the City or in connection with an organized public exhibition or show, convention, conference activity or trade show, all in which multiple vendors participate and the duration of which is ten consecutive days or fewer.

“Vendor” means any person who exhibits goods or services in a multiple-sales area at any multiple-sales location for the purpose of selling, bartering, trading, exchanging, or advertising such goods or services.

5.05C.030 License fees. License fees shall be as established by resolution of the City Council.

5.05C.040 Special event exclusions.

Vendors excluded from the provisions of this chapter and the licensing requirements of this chapter are those who participate in a show at which attendance is restricted and which show is not open to the public. Also excluded are vendors at flea markets, swap meets, transient stock vendors licensed under this chapter, and dealers of secondhand merchandise who are licensed under Chapter 5.06 (not including vendors at antique shows).

5.05C.050 Exemptions.

Vendors licensed under a general business license in Ruston (Chapter 5.05 or 5.05A RMC) do not need a temporary license and are thus exempt from the provisions of this chapter. In addition, the following are exempt:

- (a) Amateur or other exhibitions given solely for the benefit of any charitable organizations, or literary organization, and amateur or little theater productions.
- (b) Baseball, football, and other athletic games.
- (c) Motion picture theaters.
- (d) Temporary events that are operated within a theater, permanent building, or auditorium licensed under this chapter.
- (e) Holders of entertainment and dancing licenses issued pursuant to Chapter 5.11 RMC.

5.05C.060 Special event requirements.

- (a) The promoter shall submit to the City Clerk a list of the total number of vendors participating at the event for which the license is sought, which list shall include the vendor’s name, address, and business phone number, along with a general description of the goods and/or services offered by each vendor.
- (b) The license fee shall be collected by the promoter and held in trust for the City. It shall be remitted to the Clerk three days prior to the commencement of the event. There shall be personal liability for any sums collected, or any sum which should have been collected on the part of the person ultimately responsible for collection or payment of the license fee.

- (c) If any corporation required to collect or remit a tax amount due to the City under the provisions of this chapter fails, for any reason, to make such collection or payment, any of its officers or employees having control or supervision of or charged with the responsibility of making such collection or payment shall be personally liable for such failure. The dissolution of a corporation shall not discharge an official's or employee's liability for a prior failure of the corporation to collect or pay the amount due.
- (d) Nothing in this section excuses the applicant from complying with the special event permit application and requirements contained in Chapter 14.04 RMC.

Section 2. 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 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4. 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: 1510