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## ORDINANCE NO. 2238

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, AMENDING CHAPTER 5.04 OF THE REDMOND MUNICIPAL CODE REGARDING BUSINESS LICENSE REQUIREMENTS; INCREASING BUSINESS LICENSE FEES; MAKING OTHER MODIFICATIONS FOR EFFECTIVE ADMINISTRATION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, chapter 35A.82 RCW authorizes the city to require business licenses and to impose business license fees for the purpose of regulation and revenue; and

WHEREAS, the city has determined that an increase in business license fees is necessary in order to provide additional revenue for general operations and the transportation capital improvement program; and

WHEREAS, the city desires to make additional amendments to the business license requirements in order to increase the effectiveness of administration, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. <u>Business Licenses</u>. Chapter 5.04 of the Redmond Municipal Code is hereby amended to read as follows:

# Chapter 5.04 GENERAL BUSINESS REGULATIONS

Sections:

5.04.010 Purpose.

5.04.020 Scope

5.04.030 Definitions.

5.04.040 Business license required.

5.04.050 Finance Director as license officer.

- 5.04.060 Qualifications of applicants.
- 5.04.070 Procedures for issuance of license.
- 5.04.080 Fees Payment.
- 5.04.084 Temporary employees.
- 5.04.085 Penalty for late payment Interest.
- 5.04.090 Display of license Renewal Transfer.
- 5.04.100 Notification of exemption or termination of business activities.
- 5.04.110 Operating without a license.
- 5.04.120 License fee additional to others imposed.
- 5.04.130 Exemptions.
- 5.04.140 Criteria for denial, suspension or revocation of license.
- 5.04.150 Request for hearing.
- 5.04.160 Penalties.

#### 5.04.010 Purpose.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue and for regulation.

#### 5.04.020 Scope.

All persons engaging in a business or occupation within the limits of the city as hereinafter defined shall be subject to the provisions of this chapter.

#### 5.04.030 Definitions.

Where used in this chapter, the following words and terms shall have the meanings as defined in this section, unless, from the context, a more limited or different meaning is clearly defined or apparent:

- (1) "Business" includes all activities, occupations, pursuits, or professions located or engaged within the city with the object of gain, benefit or advantage to the person engaging in the same, or to any other person or class, directly or indirectly;
- (2) "Business license" is that document issued by the city licensing the transaction of the indicated business by the person whose name appears thereon for the stated year. For the purpose of this chapter, an original or officially issued duplicate shall constitute a valid "business license" for every purpose;
- (3) "Employee" means any person who performs work, labor, or services for a business and is on the business' payroll. For the purpose of this chapter, the term "employee" also includes all full-time, part-time, and temporary employees or workers on the business' payroll, and self-employed persons, sole proprietors, owners, managers, partners, any officers, agents, or personal representatives acting in a fiduciary capacity;
- (4) "Engaging in business" means commencing, conducting or continuing in any business within the city, whether or not an office or physical location for the business lies within the city. Engaging in business includes the performance of work or services by contractors, consultants, representatives, agents or other persons within the city, even though the office location of the contractor, consultant, representative, agent or other person is not within the city limits; the exercise of corporate or franchise powers, as well as the liquidation of a business when the liquidators hold themselves out to the public as conducting such business; and furnishing temporary employees and/or workers to other businesses;
- (5) "Finance director" or "director" means the City of Redmond Finance Director or his/her designee;
- (6) "Gross Revenue" shall have its ordinary meaning and also means the value accruing from the business activity within the city or conducted from the city including compensation for the rendition of services (without any reduction for labor costs or the cost of materials used), sale of

personal property (without deduction for the cost of property sold), gains or dividends realized, rents, royalties, contributions, fees and commissions, all without any deduction for any expense, taxes, or losses.

- (7) "Person" includes the singular and the plural and also means and includes any person, firm, corporation, association, club, partnership, society or any group of individuals acting as a unit:
  - (8) "City" means the City of Redmond, Washington; and
  - (9) "Year" means a calendar year.

## 5.04.040 Business license required.

- (a) No person shall engage in any business within the city without first having obtained and being the holder of a valid and subsisting license to engage in such business or activity, to be known as a "business license," and without paying the license fee imposed by this chapter. Provided, however, that an independent contractor who provides work, labor, or services to business entities licensed hereunder shall not be required to obtain a separate business license when all of the license fees required by this chapter with respect to such a person are included in the license fees paid by the entities which receive the person's work, labor, or services, pursuant to Section 5.04.080.
- (b) Persons or companies doing business in Redmond must comply with this chapter regardless of the physical location of the business (i.e., whether inside or outside Redmond city limits). An original or officially issued duplicate license must be obtained for each location where business is transacted.
- (c) A person shall obtain a separate business license for each separate business engaged in, including but not limited to a separate business license for each business for which a separate Unified Business Identifier ("UBI") number is issued by the Washington State Department of Licensing.

## 5.04.050 Finance Director as license officer.

The Finance Director shall collect all license fees and shall issue licenses in the name of the city to all persons qualified under the provisions of this chapter and shall have the authority to:

- (1) Adopt Forms. Adopt application, license, renewal, annual return, and all other necessary or convenient forms and prescribe the information to be provided. Such required information shall include, but not be limited to, the name of the applicant, his or her residence address, date of birth, place of business, the nature of the business, the form of ownership, the names of all officers of the business, the UBI number (if applicable), and the number of employees;
- (2) Obtain Endorsement. Submit applications, when deemed appropriate, to other city officials for their endorsements thereon as to compliance by the applicant with all city regulations which the officials have the duty of enforcing;
- (3) Investigate. Investigate and determine the eligibility of any applicant for a license as prescribed herein;
- (4) Examine Records. Examine and audit the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this chapter. The records of a business, including but not limited to federal and state tax returns and invoices, shall be open for examination by the Finance Director or authorized agent at any time to the extent not prohibited by law;
  - (5) Give Notice. Notify any applicant of the acceptance or rejection of the application;
- (6) Regulate Form of Licenses. Ensure that each license is numbered, and shows the name of the licensee, business address and the character of the business authorized to be transacted.

## 5.04.060 Qualifications of applicants.

Standards to be Applied. The Finance Director shall base the decision to issue or deny the license upon the following criteria:

- (1) Applicant History. All violations of city regulations or convictions within the 10 years immediately preceding application, which directly relate to the operation of the applicant's current proposed business;
- (2) License History. The license history of the applicant, whether such person is previously operating in this or another jurisdiction under a license has had such license revoked or suspended, the reasons therefor, and the demeanor of the applicant subsequent to such action;
- (3) No Obligation to City. Except as otherwise provided in this chapter, applicants shall not be in default under the provisions of this chapter or indebted or obligated in any manner to the city, except for current taxes and other obligations not past due;
- (4) Compliance with City Regulations. The proposed use of any premises shall not be in violation of any city building, safety, fire, health or land use regulations as determined by the city department charged with the enforcement of said regulations.

## 5.04.070 Procedures for issuance of license.

- (a) Formal Application Required. Every person required to procure a license under the provisions of this chapter shall submit an application for such license to the Finance Director. The application shall be made upon forms provided by the Finance Director.
- (b) Commencement of Business Activities. No person shall be entitled or authorized to engage in business within the city until such time as the Finance Director has approved the issuance of a business license pursuant to the terms of this chapter. The acceptance of a business license application by the city shall not be deemed to grant any right or privilege under this chapter, except as otherwise provided by law.
- (c) Burden on Applicant. The Finance Director, or other designated officer, is authorized, but not required, to mail to persons engaging in business forms for applications and/or renewals for licenses, but failure of the person to receive any such form shall not excuse the person from making application for and securing the license required by this chapter.
- (d) Applications for business licenses or license renewals, including home businesses, within the boundaries of Wellhead Protection Zones 1, 2, or 3 shall be accompanied by a completed Hazardous Materials Questionnaire to determine the regulatory status of the business. The Director of Public Works, or his or her designee, shall review and approve the Hazardous Materials Questionnaire.

#### 5.04.080 Fees — Payment.

- (a) Standard Fee Method. Except as otherwise provided by this chapter, every person engaging in business within the city shall pay an annual business license fee based upon the number of employee hours worked in Redmond during the previous year. Annual employee hours are calculated based on the sum of the four quarterly reports submitted to the Washington State Department of Labor and Industries for the previous year. It will be the responsibility of the employer to determine the number of hours worked within the city from these reports. Businesses that did not file quarterly reports with the Washington State Department of Labor and Industries shall determine the number of hours worked within the city and demonstrate, if required, to the satisfaction of the Finance Director or his/her authorized agent, that the number of employee hours worked is correct.
- (1) The annual license fee (base fee and surcharge) shall be calculated by multiplying the number of employee hours worked in Redmond by an hourly rate. The approved tax rate per full-time employee is \$0.043359 (which represents a base fee multiplier of \$0.014713 per employee hour worked and surcharge multiplier of \$0.028646 per employee hour worked), as may be adjusted herein. Employers without a full year history would need to estimate the number of employee hours that will be worked in the current calendar year.

Provided, however, that the surcharge provided by this subsection shall expire after December 31, 2006.

- (2) If a business has more than one location in Redmond the annual business license fee calculation must include annual employee hours at all locations.
- (b) Alternative FTE Method. A business may choose to calculate its annual license fee based on the number of its employees. The number of employees shall be based on the sum of the employees in the four quarterly reports submitted to the Washington State Department of Labor and Industries for the previous year divided by four. It will be the responsibility of the employer to determine the number of employees working within the city from these reports. Businesses that did not file quarterly reports with the Washington State Department of Labor and Industries shall determine the number of employees working in the city and demonstrate, if required, to the satisfaction of the Finance Director or his/her authorized agent, that the number of employees is correct. Employers without a full year history would need to estimate the number of employees that will work in the city for the current calendar year.
- (1) Under the FTE method the license fee shall be calculated by multiplying the number of employees by \$83.25 (a base fee of \$28.25 per full-time employee and a surcharge of \$55.00 per full-time employee), as may be adjusted herein.

Provided, however, that the surcharge provided by this subsection shall expire after December 31, 2006.

- (2) Once the FTE methodology has been selected, it must be used for future renewals.
- (3) Businesses with more than one location must use the same method of calculation for all locations.
- (4) For businesses with employees who work less than 1,920 hours per year (the work hour figure used by the Washington Department of Labor and Industries) the total number of hours worked by all such employees during the four quarters of the previous year shall be added together and divided by 1,920 to determine the FTE equivalency.
- (5) It will be the responsibility of the business to determine the total number of FTE's (or equivalency) and demonstrate, if required, to the satisfaction of the Finance Director or his/her authorized agent, that the calculation is accurate.
- (d) If at any time during the year it appears that the number of employee hours worked or if using the FTE method the number of employees was under-reported at the time of application or renewal, an additional license fee and a penalty on the additional license fee shall be due. The penalty shall be equal to twenty percent (20%) per annum of the additional fee, plus any accounting, legal, or administrative expenses incurred by the city in determining the under-reporting or in collecting the tax and penalty.
- (e) The license fee for a business required to be licensed under this chapter and not located within the city's corporate limits shall be calculated based upon the number of employee hours worked within the city, but in no event shall the license fee be less than the minimum fee set forth in this chapter. If the number of employee hours worked is not known at the time of renewal, the business shall estimate the maximum number of employee hours they anticipate using in Redmond during the year.
- (f) Businesses doing business in the city that have no employees physically working within the city shall pay the minimum license fee required under this chapter.
- (g) The minimum fee for any license issued under this chapter shall be \$83.25 (a base fee of \$28.25 and a surcharge of \$55.00), as may be adjusted herein.

Provided, however, that the surcharge provided by this subsection shall expire after December 31, 2006.

- (h) The annual license fee shall become due and payable on January 1st of each calendar year. The business license fee shall not be prorated for any part of any year.
- (i) A licensee may request that the city refund that portion of the annual business license overpaid on the basis that the business miscounted the number of employee hours worked or the number of employees. The request must be in writing and the city must receive the request and all supporting payroll documentation no later than 60 days after the end of the licensee's fiscal

year in which the error was made. If the Finance Director is satisfied that the business paid an excess business license fee, then the city will refund the excess fee paid by the business during either the current calendar year or one prior calendar year.

- (j) Payment made by draft or check shall not be deemed a payment of the fee unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check or draft operate as an acquittance or discharge of the fee unless and until the check or draft is honored. Any person who submits a business license fee payment by check to the city pursuant to the provisions of this chapter shall be assessed a NSF fee set by the Finance Director if the check is returned unpaid by a bank or other financial institution for insufficient funds in the account or for any other reason.
- (k) If any person required by the terms and provisions of this chapter to pay a license fee for any period fails or refuses to do so, he shall not be granted a license for the current period until the delinquent license fee, together with penalties, has been paid in full. In addition, no business license shall be issued unless all preventable fire alarm fees imposed on the business, together with penalties, are paid in full. Any license fee due and unpaid under this chapter and any penalties thereon shall constitute a debt to the city and may be collected in court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

#### 5.04.084 Temporary employees.

The following provisions shall apply to businesses engaged in the practice of providing temporary employees or workers ("temporary agencies") to businesses located within the city and to businesses located within the city which utilize the services of such employees or workers:

- (1) Temporary agencies located within the city shall include all temporary employees and workers placed with businesses located within the city in calculating the number of employee hours worked in addition to employees described under RMC 5.04.030(3);
- (2) Temporary agencies located outside the city which place temporary employees or workers with businesses located within the city shall include all such temporary employees and workers in calculating the number of hours worked by their employees;
- (3) Businesses located within the city which utilize temporary employees or workers provided by a temporary agency shall not include the temporary employees or workers in calculating the number of their employee hours;
- (4) Temporary agencies placing temporary employees and workers within the city shall calculate the number of hours worked by such employees and workers in the manner provided by RMC 5.04.080(a);
- (5) In submitting an initial business license application or subsequent renewal application, all businesses located within the city which use temporary employees or workers furnished by a temporary agency shall indicate the number of employee hours worked by using the formula set forth in RMC 5.04.080(a) and further indicate the names and addresses of the temporary agencies furnishing said employees or workers. Failure to so report the number of hours worked by temporary employees or workers or the names and addresses of the agencies furnishing said employees or workers shall result in imposition of a penalty equal to 10% of the company's total business license fee. In addition, failure to report may result in revocation, suspension, or denial of the business license.

## 5.04.085 Penalty for late payment — Interest.

For each payment due, if such payment is not made or post-marked by the due date, there shall be added penalties as follows:

(1) For each payment or portion thereof that is more than thirty (30) days past due, a penalty of fifty (50) percent of the license fee due shall be imposed;

(2) For any payment or portion thereof that is more than sixty (60) days past due, a penalty of one hundred (100) percent of the license fee due shall be imposed.

The Finance Director or his/her authorized agent is authorized, but not obligated, to waive all or any portion of the penalties and interest provided herein in the event that the Director or his/her authorized agent determines that the late payment was the result of excusable neglect or extreme hardship.

# 5.04.090 Display of license — Renewal — Transfer.

- (a) Display of License. Every license granted under this chapter shall be posted in a conspicuous place in the place of business of the licensee. No person shall allow any license to remain posted, displayed, or used after the period for which it was issued has expired, or when it has been suspended or revoked, or for any other reason become ineffective.
- (b) Renewal. Each license granted shall expire at the end of the calendar year in which it is issued. Each licensee shall be responsible to renew the license for each ensuing calendar year.
- (c) Nontransferability. Any license issued under and by virtue of the provisions of this chapter shall be personal and nontransferable.
- (d) New Location Desired. A licensee shall have the right to change the location of the licensed business provided confirmation of the legality of the business activity at the new location is obtained by the Finance Director.
- (e) Multiple Locations. In case a licensee desires to conduct business at two (2) or more separate locations, a business license must be conspicuously posted at each location where business is transacted. A supplemental location application must be completed for each location where business is conducted in addition to the primary location of the business. After receipt of a supplemental location application, the Finance Director shall issue a duplicate business license for each such additional location. Prior to issuance of a duplicate business license for an additional location, the Finance Director shall first confirm the legality of the business at each such location.

## 5.04.100 Notification of exemption or termination of business activities.

- (a) Every person who has obtained a business license required by this chapter and who thereafter ceases to engage in business within the city shall, prior to the end of the calendar year during which business operations have been terminated, notify the Finance Director in writing that business activities have ceased. Any business for which a license has been issued shall be presumed to continue in operation within the city unless notice of termination of business activities has been given as provided above, and enforcement proceedings may be commenced on the basis of such presumption.
- (b) Every person who engages in a business in the city which is exempt from the licensing provisions of this chapter under federal, state or local laws shall notify the Finance Director in writing of the exemption and the basis for the exemption.
- (c) Any business which is exempt from the provisions of this chapter or has terminated its business activities in the city shall not be entitled to a refund of any license fee paid under this chapter.

#### 5.04.110 Operating without a license.

Any person who engages in, or carries on, any business subject to the payment of a license fee hereunder without having obtained a business license to do so shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on; and any person subject thereto who fails or refuses to pay the license fee, or any part thereof, on or before the due date, shall be deemed to be operating without having obtained a license to do so.

## 5.04.120 License fee additional to others imposed.

The license fee levied in this chapter shall be additional to any license fee or tax imposed or levied under the law or any other ordinance of the city except as expressly provided herein.

#### 5.04.130 Exemptions.

The provisions of this chapter shall not apply to:

- (1) Any instrumentality of the United States, the State of Washington, or political subdivision thereof with respect to the exercise of governmental functions;
- (2) Any farmer, gardener, or other person who sells, delivers or peddles any fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meat or any farm produce or edibles raised, caught, produced or manufactured by such person in the state;
  - (3) Family day care home occupations;
- (4) Any entity exempt from taxation under 26 U.S.C. Sec. 501(c)(3), upon furnishing proof to the Finance Director of its nonprofit status;
- (5) Any apartment or condominium, residential rental or leasing activity which does not involve more than four residential units at any one location within the city;
- (6) Any insurers or their agents, as those terms are defined in RCW 48.01.050 and RCW 48.17.010, respectively, who represent insurance companies or sell insurance to the public and are properly licensed by the state. Provided, however, that this exemption shall not apply to insurance brokers or solicitors, as said terms are defined in RCW 48.17.020 and RCW 48.17.030, respectively;
  - (7) Newspaper carriers under the age of 18; or
- (8) Any person, business, enterprise, firm, or corporation which the city is forbidden to license or tax under state or federal law.

# 5.04.140 Criteria for denial, suspension or revocation of license.

The Finance Director may deny issuance of a business license to any applicant or suspend or revoke any and all business licenses of any holder when such person, or any other person with any interest in the application or license:

- (1) Knowingly causes, aids, abets, or conspires with another to cause any person to violate any of the laws of this state or the city which may affect or relate to the applicant's or license holder's business;
- (2) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;
- (3) Is convicted of, forfeits bond upon, or pleads guilty to any offenses related to the operation of the applicant's or license holder's business;
- (4) Makes a misrepresentation or fails to disclose a material fact to the city related to any of the obligations set forth in this chapter;
- (5) Violates any building, safety, fire or health regulation on the premises in which the business is located after receiving warning from the city to refrain from such violations;
  - (6) Is in violation of a zoning regulation of the city;
- (7) Is indebted or obligated to the city for past due taxes excluding special assessments such as LID assessments.

## 5.04.150 Request for hearing.

(a) Notification of Suspension, Revocation, or Denial. When the Finance Director determines that there is cause for denying, suspending or revoking any license issued pursuant to this chapter, the Director shall notify the applicant or person holding such license by registered or certified mail, return receipt requested, of the Director's decision. Notice mailed to the address on file shall be deemed received three (3) days after mailing. The notice shall specify the grounds for the

denial, suspension or revocation. The suspension or revocation shall become effective ten (10) days from the date the notice is delivered or deemed received unless the person affected thereby files a written request with the Director for a hearing before the City Hearing Examiner within such ten (10) day period.

- (b) Hearing Procedure. Upon written request as set out above, the Hearing Examiner shall schedule and hold a hearing within thirty (30) days following receipt of such request. During the pendency of the hearing and until action by the City Council the action of the Director shall be stayed. At the hearing, both the applicant or licensee and the city shall be entitled to present evidence. Upon completion of the hearing, the Hearing Examiner shall make written findings and a recommendation to the City Council. At a public meeting, the City Council, upon considering the findings and recommendations of the Hearing Examiner, shall, without need for further evidence:
  - (1) Accept the Hearing Examiner's recommendation as presented; or
  - (2) Determine no action is warranted; or
  - (3) Modify the recommended action.
- (c) Appeal from City Council. Appeal from a decision of the City Council shall be to the King County Superior Court and must be served and filed within thirty (30) days of the decision of the City Council. In the event the applicant or license holder does not follow the procedures within the time periods set forth above, the license of said person shall be denied, suspended or revoked, and that action shall be final.
- (d) Return of License upon Revocation. Whenever any license issued under this chapter is revoked, the licensee shall immediately return the license to the Finance Director.

#### 5.04.160 Penalties.

Any person violating or failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in Section 1.01.110 of the Redmond Municipal Code.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or 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. Effective Date. This ordinance shall take effect January 1, 2005.

CITY OF REDMOND

MAYOR ROSEMARIE IVES

#### ATTEST/AUTHENTICATED:

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CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

By:

FILED WITH THE CITY CLERK!
PASSED BY THE CITY COUNCIL:

SIGNED BY THE MAYOR:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO: 2238

November 24, 2004 November 30, 2004 November 30, 2004 December 6, 2004 January 1, 2005