

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2018-22

SUBJECT: Business License Update

CONFORM AS TO DATES & SIGNATURES

- ☒ Filed with the City Clerk: 09/13/18
- ☒ Passed by the City Council: 09/19/18
- ☒ Signature of Mayor
- ☒ Signature of City Clerk
- ☒ Publication: 09/28/18
- ☒ Effective: 01/01/19
- ☐ Recorded: _____

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- ☐ _____

Rhiannon Fernandez

City Clerk

09/20/18

Date

ORDINANCE NO. 2018-22

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, RELATING TO BUSINESS LICENSE REQUIREMENTS AND AMENDING SUBSECTIONS 5.04.010.B, 5.04.020.E, AND 5.04.090.A OF THE POULSBO MUNICIPAL CODE TO INCORPORATE STATE MANDATED CHANGES TO THE DEFINITION OF ENGAGING IN BUSINESS; PROVIDING A THRESHOLD FOR BUSINESSES TO RECEIVE FEE-FREE LICENSES; AMENDING THE NUMBER OF DAYS A TEMPORARY BUSINESS LICENSES IS VALID; AND AMENDING SECTION 3.12.040.D OF THE POULSBO MUNICIPAL CODE TO REFLECT FEE-FREE BUSINESS LICENSES THAT DO NOT MEET THE MINIMUM THRESHOLD.

WHEREAS, in the 2017 session, the state legislature passed EHB 2005 (RCW 35.90) with the intent to simplify the administration of municipal general business licensing for the general applicant and improve the business climate;

WHEREAS, the legislation requires cities with business licensing to adopt model language for licensing thresholds and adopt model language defining “engaging” in business; and

WHEREAS, EHB 2005 required cities to work through the Association of Washington Cities (AWC) to develop a model business license threshold by July 1, 2018 with a focus on determining a threshold for when a license should be required for out-of-city businesses. The bill also required input from the business community; and

WHEREAS, in response to business community concerns about the level of the threshold, the committee proposed setting the threshold at \$2,000 per year in the city for businesses without a location in the city. The committee agreed to review the threshold level in four years when the model B&O tax model ordinance will also be due for review and more information on impacts of the license threshold is known. In late June, the committee finalized the model language; and

WHEREAS, Current BLS partner cities must adopt the language by October 17, 2018 (RCW 35.90.070), and provide notification to BLS in order to maintain its business licensing program on January 1, 2019; and

WHEREAS, the Finance-Administration Committee reviewed the legislation changes at their July 18, 2018, and August 15, 2018, committee meetings and recommended fee-free licensing for both residential and non-residential businesses who

do not meet the minimum \$2,000 threshold, adopting the model "engaging in business" language, and changing the number of days a temporary business license is valid from 10 days to 14 days, based on staff's recommendation that contractors needed a couple extra days to complete their projects; and

**THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO ORDAIN
AS FOLLOWS:**

Section 1. Subsections 5.04.010(B), 5.04.020(E), and 5.04.090(A) of the Poulsbo Municipal Code are hereby amended to read as follows:

5.04.010 Definitions.

B. "Engaging in business"

1. "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.
2. 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. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). 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.
3. 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.
 - a. 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.
 - b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.
 - c. Soliciting sales.

- d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
- e. 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.
- f. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
- g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
- h. Collecting current or delinquent accounts.
- i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
- j. 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.
- k. 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, veterinarians.
- l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
- m. 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.
- n. Investigating, resolving, or otherwise assisting in resolving customer complaints.
- o. 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.

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

4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.

- a. Meeting with suppliers of goods and services as a customer.
- b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
- c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
- d. Renting tangible or intangible property as a customer when the property is not used in the City.
- e. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.
- f. Conducting advertising through the mail.
- g. Soliciting sales by phone from a location outside the City.

5. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

5.04.020 Required – Exceptions.

E. Threshold with Fee-Free License - For purposes of the license required 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, shall submit a business license registration application to the Director or designee and shall not engage in business in the City until a business license is issued,, but such licensees shall not be required to pay the ordinarily applicable business license fee. The fee-exemption threshold provided by this section does not apply to regulatory license requirements or activities that require a specialized permit.

5.4.090 Fee – Temporary and special events.

A. Any person engaged in business within the city for a period not to exceed fourteen days within any three consecutive months may obtain a temporary business license upon application to the city clerk. The fee for this temporary license is set forth in Section [3.12.040](#)(D)(5). The temporary license may not be renewed during that calendar year.

Section 2. Section 3.12.040.D of the Poulsbo Municipal Code is hereby amended as follows (strikethroughs indicate deletions, underlining indicates additions):

D. Business License Fee – Late Payment – Prorated Out of Town Renewals

1. The fee for the initial application for an annual business license shall be sixty-five dollars and the master license service handling fee to be submitted with the application. Businesses 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 shall be no fee or \$0.

2. The fee for renewal of the business license shall be sixty-five dollars and the master license service handling fee per year to be received by the State Department of Revenue on or before the expiration date as determined by the State of Washington Department of Revenue.

3. If any license issued under this chapter is not renewed by the date of expiration, the Business Licensing Service may assess the late renewal fee authorized by RCW 19.02.085 in addition to the license fees due for renewal.

4. The fee for a temporary license, of a period not to exceed fourteen calendar days within any three consecutive months, shall be twenty dollars and may not be renewed during that calendar year.

5. The fee for a special event license shall be a nonrefundable application fee of twenty-five dollars; provided, that the application fee may be waived if, in the opinion of the city clerk, the imposition of such fee will create an undue hardship on the applicant.

6. The city reserves the right to charge any sponsor of a special event direct costs incurred by the city as a result of the event. Such costs may include, but are not limited to, the cost of barricading streets, police officers to direct or block pedestrian or vehicular traffic, plan review or other public safety involvement and staff performing cleanup or other city services.

Section 3. 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 4. Effective Date. This ordinance shall take effect and be in full force on January 1, 2019.

PASSED by the Poulsbo City Council this 19th day of September, 2018.

APPROVED:



MAYOR BECKY ERICKSON

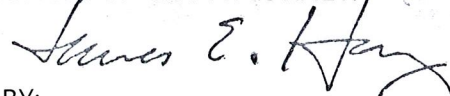
ATTEST/AUTHENTICATED:



CITY CLERK, RHANNON FERNANDEZ CMC

APPROVED AS TO FORM:

OFFICE OF CITY ATTORNEY:


BY: _____

FILED WITH THE CITY CLERK: 09/13/2018

PASSED BY THE CITY COUNCIL: 09/19/2018

PUBLISHED: 09/28/18

EFFECTIVE DATE: 01/01/2019

ORDINANCE NO. 2018-22

SUMMARY OF ORDINANCE NO. 2018-22

of the City of Poulsbo, Washington

On the 19th day of September, 2018, the City Council of the City of Poulsbo, passed Ordinance No. 2018-22. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, RELATING TO BUSINESS LICENSE REQUIREMENTS AND AMENDING SUBSECTIONS 5.04.010.B, 5.04.020.E, AND 5.04.090.A OF THE POULSBO MUNICIPAL CODE TO INCORPORATE STATE MANDATED CHANGES TO THE DEFINITION OF ENGAGING IN BUSINESS; PROVIDING A THRESHOLD FOR BUSINESSES TO RECEIVE FEE-FREE LICENSES; AMENDING THE NUMBER OF DAYS A TEMPORARY BUSINESS LICENSES IS VALID; AND AMENDING SECTION 3.12.040.D OF THE POULSBO MUNICIPAL CODE TO REFLECT FEE-FREE BUSINESS LICENSES THAT DO NOT MEET THE MINIMUM THRESHOLD.

The full text of this Ordinance will be mailed upon request.

DATED this 19th day of September, 2018.



CITY CLERK, RHIANNON FERNANDEZ