

ORDINANCE NO. 2016-41

AN ORDINANCE ADDING CHAPTER 5.05 TO THE WALLA WALLA MUNICIPAL CODE REQUIRING BUSINESS LICENSES AND ESTABLISHING CHARGES FOR SUCH LICENSES

WHEREAS, the City is authorized pursuant to sections 35A.82.020 of the Revised Code of Washington (RCW) to license and revoke the same for cause, to regulate, make inspections, and to impose excises for regulation or revenue in regard to all places and kinds of business, production, commerce, entertainment, and exhibition, and upon all occupations, trades and professions and any other lawful activity; and

WHEREAS, section RCW 35.21.706 requires that any city first imposing a business and occupation tax after April 22, 1983 shall provide for a referendum procedure to apply to such ordinance imposing said tax; and

WHEREAS, the Walla Walla City Council has determined that the common benefit of the citizens of Walla Walla, the best interests of the City of Walla Walla, and good government of the City of Walla Walla will be served by requiring those engaged in production, commerce, entertainment, and exhibition, and upon all occupations, trades and professions and other such lawful activity to register with the City of Walla Walla, pay a business license charge, and obtain a City business license; and

WHEREAS, the purposes of such an enactment is to both regulate said activities and to raise revenue, and this ordinance is an exercise of the power of the City to license for revenue; and

WHEREAS, the Walla Walla City Council reviewed this matter at their November 14, 2016 workshop to seek public input; and

WHEREAS, the Walla Walla City Council has considered this matter during a regularly and duly called public meeting of said Council, has given careful review and consideration to the matter, and having passed this ordinance.

NOW THEREFORE, the City Council of the City of Walla Walla do ordain as follows:

Section 1: Chapter 5.05 is hereby added to the Walla Walla Municipal Code as follows:

Chapter 5.05
GENERAL BUSINESS LICENSE

Sections

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5.05.010 Authority and Intent.

The provisions of this chapter are an exercise of the power of the City to license and revoke the same for cause, to regulate, make inspections, and to impose excises for regulation or revenue in regard to all places and kinds of business, production, commerce, entertainment, and exhibition, and upon all occupations, trades and professions and any other lawful activity.

5.05.020 Definitions.

Unless otherwise defined in this chapter, words are to be given their meaning as defined in section 1.05.010 of this code, and it shall be construed in accordance with chapter 1.05 of this code; provided, however, that this title shall be liberally construed in favor of imposition of any requirement or charge established herein, and it shall be strictly construed against any limitation, exception or exclusion.

“Business” includes all activities, occupations, trades, pursuits, professions and matters located or engaged in business within the city or anywhere else within the City's jurisdiction with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly; except activities regulated by chapter 5.01 and 5.03 of this title and franchisees of the City specifically regulated by separate City ordinance for which those engaged in such activity are in compliance with the provisions of the applicable chapter or ordinance.

“Business License” means the approval given by the City to a business to conduct the type of business for which was applied. “Business License” also means the document issued to a business providing proof of the business having been properly license with the City for the activity for which was applied.

“Business Licensing Service” or “BLS” means the office within the state Department of Revenue providing licensing services to the City.

“Employee” includes full-time employees, part-time employees, permanent employees, and temporary employees. An independent contractor is not considered to be an employee.

“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, 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.

“Taxpayer” includes any person who engages in business or temporary business, who is required to have a license, who is liable for any license charge, or who performs any act for which a license charge is imposed by this chapter.

5.05.030 Business License Required - Posting.

A. No person may engage in business in the City without first having obtained and being the holder of a current and valid business license. To license under the program, a person must submit a Business License Application to the Business Licensing Service, and pay the applicable city license fee, all other license fees due, and the BLS handling fee authorized by RCW 19.02.075.

B. A business license will be issued to a business that has been approved by the City.

C. A business license must be posted in a conspicuous location at the physical place of business. In the case of nonresident businesses conducting business within the city, the business license must be present at the location business is being conducted.

5.05.040 Exemptions from the City licensing fee.

The licensing requirements apply but fee requirements of this chapter do not apply to:

A. Any person which the City is forbidden to tax by law; and

B. Accredited public or private schools, colleges, or universities, as to their education endeavors only; churches and other religious bodies, as to their religious activities only; and fraternal organizations and lodges as to their fraternal and lodge activities only; civic and charitable organizations, including nonprofit hospitals and clinics, as to their civic and charitable activities only; but not as to any business activities by these entities.

C. Employee(s) who work solely for person(s) holding a current and valid business license.

D. A business which does not generate gross business revenues exceeding five thousand dollars (\$5,000.00) per calendar year. Gross business revenues means the revenues to the business and is not computed separately for each individual partner, principal, employee, or other constituent part of the business. If gross revenues exceed the amount specified herein, a license is required, and the license fee shall be for a term beginning from the date that the business activity commenced.

5.05.050 Business License Application, Renewal, delinquency, and cancellation.

A. A person must register a business with the city program by submitting a Business License Application to the BLS in coordination with the Development Services Department, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter and to complete the application process through BLS.

B. When a taxpayer operates two or more businesses, a license is required for each business.

C. If a business is operated in two or more locations and is the same business, a separate application filing and business license is required for each business.

D. If a single business has at least one permanent location in the city and also conducts business on a temporary or seasonal basis from temporary or mobile locations, such as from portable stands or vehicles, the taxpayer must obtain a mobile vendor’s license as provided in chapter 5.04 of this title or a peddler/hawker/transient business license as provided in chapter 5.27 of this title, whichever is applicable, for each such location or stand or vehicle. The chief of police may temporarily suspend or relocate a secondary location license allowing business

activity on or adjacent to a public street or other public place when such business activity may endanger public safety or conflict with a permitted special event.

E. A person who has registered a business under the City's program must renew the license on an annual basis, on or before the expiration date established by the Business Licensing Service in order to continue conducting business in the City.

1. Renewal requires payment of the City license fee, all other license fees due, and the BLS handling fee authorized by RCW 19.02.075.
2. Failure to renew the license by the expiration date may accrue the BLS late renewal penalty authorized under RCW 19.02.085. In addition to the penalties provided for failure to obey the municipal code or a municipal ordinance, failure to pay any charge imposed by this chapter when due subjects the taxpayer to a minimum penalty of ten dollars or five percent of the amount of the license fee for each month, or part thereof, of delinquency, whichever is greater. Interest will accrue on the unpaid fee plus the penalty levied thereon at the rate of one percent of the amount of the unpaid charge plus penalty for each month, or part thereof, of delinquency.
3. A license that remains delinquent for at least 120 days past expiration is considered to be abandoned and may be cancelled by the City. A cancelled license may require submitting a new application to the Business Licensing Service, and re-approval of the business by the City to resume conducting business in the city.

5.05.060 Term of Business License.

A business license is valid for a term of 12 months, unless otherwise prorated, and expires on the date determined by the BLS.

5.05.070 Business License Fee.

A person engaging in any business shall pay a basic charge of fifty dollars (\$50.00) to the City of Walla Walla for the term of each business license or renewal thereof.

5.05.080 Transfer of Licenses.

All licenses required by this chapter are personal. Whenever there is a change of ownership, the license holder must immediately surrender the license to the City for cancellation, a new license application must be immediately filed with the City by the new owner, and a new license obtained. If a business changes names or locations during a license year, without a change of ownership, the license holder must immediately surrender the license to the City for cancellation, a new license application must be immediately filed with the City, and a new license obtained. Upon any transfer of ownership, the new owner shall pay a transfer charge of thirty dollars (\$30.00) to the City of Walla Walla. Upon any business name or location change, unaccompanied by a transfer of ownership, the new license holder shall pay a transfer charge of thirty dollars (\$30.00) to the City of Walla Walla.

5.05.090 License Denial.

If any person fails to fully comply with the requirements of this title, including the payment of any applicable charge, including penalty or interest, no license may be granted to that person

until that person is in full compliance and the delinquent charge, together with penalties and interest, have been paid in full.

5.05.100 License Revocation.

If any person fails to pay any applicable license or renewal charge imposed by this chapter, including penalty or interest, knowingly fails to comply with any of the provisions of this chapter, the City shall revoke any license which has been issued, and no new license may be granted to that person until that person is in full compliance and the delinquent fee, together with penalties and interest, have been paid in full. Any person whose license has been revoked shall be required to reapply to the City for a new license and shall be subject to any and all charges imposed by this chapter without credit for any other amounts owed or previously paid.

5.05.110 Records to be kept.

It shall be the duty of every person liable for any tax imposed by this chapter to keep and preserve for a period of two years, plus the current year, such suitable records as may be necessary to determine the amount of any charge for which the person may be liable under the provisions of this chapter. In the case of a person who does not keep the necessary records within the city, it shall be sufficient if the taxpayer produces within the city such records as required by the City, or if the taxpayer bears the cost of examination at the place where the records are kept. The records shall be available at all reasonable times for examination and audit by the City or his or her designee.

5.05.120 Rules and regulations.

The Development Services Department may adopt and promulgate rules and regulations for administration and enforcement of this chapter which are not inconsistent herewith or with superior law. The purpose of such rules and regulations is to carry out the provisions of this chapter, and it shall be unlawful to fail to comply with any such rule or regulation.

5.05.130 Civil Suit Authorized.

In addition to whatever other penalties may be available to enforce this chapter, civil suit may be commenced in the name of the City to collect any fee, interest, or penalty due the City or to enjoin any taxpayer who is not in compliance with this chapter from doing any activity for which a license is required until such taxpayer shall have come into full compliance.

5.05.140 Issuance of License shall not Relieve Compliance with any other Applicable Law or Regulation.

The issuance of a license under this chapter shall not relieve any person from compliance with any other law or regulation, of any kind whatsoever, which may apply.

5.05.150 Violation - penalty.

Any person who knowingly violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as set forth in Section 1.24.010 of this code. Each day in which a violation of any of the provisions of this chapter continues shall be considered a separate offense.

Section 2: Chapter 20.142 of the Walla Walla Municipal Code relating to business registration is hereby repealed.

Section 3: This ordinance shall be subject to referendum by the procedure provided in this section which supersedes and is exclusive of any other method. Chapter 1.19 of the Walla Walla Municipal Code shall not apply to this ordinance.

A. A referendum petition may be filed no later than December 14, 2016 at 5:00 p.m. with the Walla Walla City Clerk at 15 N. Third Ave., Walla Walla. It must be signed by the petitioner(s) sponsoring the referendum petition, who must be registered voter(s) of the City of Walla Walla, indicate the date of signing, and contain the full name, address, and telephone number of the petitioner(s) sponsoring the referendum petition. The statement on the petition shall be phrased as follows:

SHOULD THE CITY OF WALLA WALLA ORDINANCE NO. 2016-XX REQUIRING BUSINESS LICENSES AND ESTABLISHING CHARGES FOR SUCH LICENSES, ENACTED BY THE WALLA WALLA CITY COUNCIL ON DECEMBER 7, 2016, BE REPEALED IN ITS ENTIRETY?

Your signature on this petition indicates your vote in favor of repeal of the attached ordinance in its entirety.

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

1. Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures.
2. Petitions shall include numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing.
3. Each signature on a petition shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

B. Immediately upon filing of the referendum petition, if practicable, and in no event later than ten (10) days of the filing of the referendum petition, the City Clerk shall issue the petition an identification number, shall secure an accurate, concise, and positive ballot title from the Walla Walla City Attorney, shall confer with the petitioner(s) concerning the form and style of the petition, and shall prepare and issue a referendum petition form which shall conform to the requirements of subsection (A), and must contain the ballot title, and the full text of this ordinance. If the petitioner(s) shall fail to attend the conference with the City Clerk, the referendum petition forms shall be deemed to be issued on the tenth (10th) day after filing of the

referendum petition.

C. The petitioner(s) shall have thirty (30) days from the date of issuance of the referendum petition form to secure the signatures of not less than fifteen percent (15%) of the registered voters of the city, as of the last municipal general election, upon the petition form.

D. The signed petition form must be filed with the City Clerk no later than 5:00 p.m. of the first City of Walla Walla business day following expiration of the thirty (30) day signing period. A petition form may include any page or group of pages containing an identical text intended by the circulators, signers or sponsors to be presented and considered as one petition form.

1. Any signer of a petition may withdraw his or her signature by a written request for withdrawal filed with the City Clerk prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

2. For purposes of this subsection, a City of Walla Walla business day means any day during which City Hall is open to the public.

E. The City Clerk shall determine in writing the sufficiency of any timely filed petition.

1. Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

2. A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

3. Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

D. If sufficient valid signatures are properly submitted, the City Clerk shall certify the referendum measure to the next election ballot within the city or at a special election ballot as provided pursuant to RCW 35.17.260(2).

E. If a majority of the votes cast at the election favor repeal of this ordinance, it shall be deemed immediately repealed upon certification of the election.

Section 4: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason declared or held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5: Sections 1 and 2 of this ordinance shall take effect and be in full force on January 1, 2018 in the manner provided by law. All other sections of this ordinance shall immediately take effect and be in full force in the manner provided by law.

Section 6: Neither the referendum process, the filing of a referendum petition, the filing of signed referendum petition forms, nor the certification of the referendum petition for election shall suspend or delay the effectiveness of this ordinance.

PASSED by the City Council of the City of Walla Walla, Washington, this 7th day of December, 2016.

Mayor

Attest:

Approved as to form:

City Clerk

City Attorney