

ORDINANCE NO. 1255

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO BUSINESS LICENSING, TEMPORARY BUSINESSES, AND PEDDLERS; AMENDING GHMC CHAPTER 5.01 OF THE MUNICIPAL CODE RELATING TO BUSINESS LICENSING AND EXEMPTIONS; REPEALING GHMC CHAPTER 5.16 TEMPORARY BUSINESSES; AND ADDING A NEW CHAPTER 5.21 PEDDLERS ESTABLISHING THE PROCESS FOR LICENSING APPLICATION, REVIEW, APPROVAL AND APPEALS, SETTING FEES, DEFINING VIOLATIONS AND PROVIDING PENALTIES FOR SUCH PEDDLERS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Gig Harbor desires to better develop its guidelines for the regulation and licensing of business and occupations; and

WHEREAS, it is necessary to establish and clarify these guidelines for the purpose of insuring consistency, adherence to municipal regulations, and efficiency; and

WHEREAS, the City Council desires to update the definition of “businesses” requiring business licenses within the City and desires to add exemptions to clarify those businesses not required to obtain a business license; and

WHEREAS, the City Council desires to eliminate GHMC Chapter 5.16 relating to Temporary Business in order to consolidate these types of uses under a peddlers licensing chapter for administrative efficiency; and

WHEREAS, the City Council desires to create a new Chapter 5.21 GHMC relating to licensing of peddlers who go from place to place, or house to house, selling goods, wares, merchandise, or services; and

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 5.01.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

5.01.010 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein.

- A. "Business" includes all activities, occupations, pursuits, service providers, or professions located and/or engaged in within the city with the object of gain, benefit or advantage to the licensee or to another person or class, directly or indirectly, whether part-time or full-time. Each business location shall be deemed a separate business. Utility companies are defined as businesses.

Section 2. Chapter 5.01.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

5.01.030 Exemptions.

- A. All businesses operated not-for-profit shall be exempt from paying a business license fee upon application and satisfactory proof to the City license officer of said not-for-profit status;
- B. Any special events licensed under another ordinance of the city;
- C. Any instrumentality of the United States, the State of Washington, or political subdivision thereof;
- D. Any farmer or gardener who sells, delivers or peddles any fruit, vegetables, berries, butter, eggs, fish, milk, poultry, meats, or any farm produce or edibles raised, caught, produced or manufactured by such person;
- E. Tax-exempt nonprofit organizations recognized by the State of Washington and the United States Government;
- F. Nonprofit organizations, clubs, or corporations maintained for the purpose of organized sports, charity, public school-related activities, or municipal-related activities, including police or fire department reserve organizations;
- G. The peddling or delivery of newspapers;
- H. Representatives from businesses located outside the city limits calling on licensed businesses within the city limits for purposes of wholesale business;
- I. Vendors not otherwise engaged in business in the city who rent a booth or space, or are otherwise a participant, at a city-sanctioned or sponsored event such as the Farmers' Market or Special Events as defined by GHMC 5.25;
- J. Minors doing business or operating a business concern where no other person is employed by the minor, such as babysitting, lawn mowing, car washing, and similar activities;
- K. Casual or isolated sales or services made by persons who are not engaged in the ongoing business of selling the type of property involved. "Casual or isolated" is defined as not more than four such sales made during any tax year. Examples include garage sales, yard sales, rummage sales, bake sales, and occasional parties for the sale or distribution of goods.

Section 3. Chapter 5.01.100 of the Gig Harbor Municipal Code is hereby amended to read as follows:

5.01.100 Licenses for businesses located outside City limits. Businesses located outside the city which furnish or perform services within the city limits, ~~and which conduct business during more than thirty (30) calendar days within a calendar year,~~ unless included in the exemptions in 5.01.030, shall hereafter ~~apply and pay for~~ obtain a business license.

Section 4. Gig Harbor Municipal Code Chapter 5.16 Temporary Businesses is hereby repealed in its entirety.

Section 5. A new Chapter 5.21 – Peddlers is hereby adopted, to read as follows:

Chapter 5.21 PEDDLERS

Sections:

5.21.010 Peddler Defined.

5.21.020 License required – Exceptions.

9.66.030 Application – Fee.

9.66.040 Restrictions on place and time of peddling.

9.66.050 Penalty.

5.21.010 Peddler defined.

“Peddler” for the purpose of this chapter shall be construed to include all persons, both principals and agents, who go from place to place, or house to house, carrying for sale, exposing for sale, or offering for sale, goods, wares, merchandise or services of any type. “Peddle” means to engage in such actions.

5.21.020 License required – Exceptions.

A. It is unlawful for any peddler to peddle any goods, wares, merchandise or services without first obtaining a peddler’s license as provided for in this chapter.

B. Exceptions. No person shall be required to take out a license or pay a fee:

1. For the peddling of local newspapers;
2. For the peddling of fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats, or any farm produce or edibles raised, caught, produced or manufactured by such person;
3. When that person, after having been specifically requested by another to do so, calls upon that other person for the purpose of displaying goods or literature about any article, thing, or product; or
4. When that person is acting in his or her capacity as a member of a charitable, religious or nonprofit organization or corporation which has received tax-exempt status under 26 USC Section 501(c)(3) or other similar civic, charitable, political, or nonprofit organizations.

5.21.030 Application – Fee.

A. Every peddler, other than those exempt under this chapter, whether principal or

agent, shall before commencing business in the city make application in writing on a form to be provided by the City of Gig Harbor licensing officer. The application shall include an authorization allowing release of all criminal history record information to the Gig Harbor Police Department.

B. At the time of filing the application, a fee in the amount of \$50.00 shall be paid to the city to cover the costs of investigation and processing the application. The permit is valid for a period of 90 days from the date of issuance.

C. The licensing officer shall refer the application to the police department, who shall make a criminal history background investigation of the applicant. Upon completion, the police department shall forward the results of the investigation to the licensing officer.

D. If, as a result of the investigation, the applicant is not found to have committed any of the acts requiring denial as listed below, the permit center shall issue the license to the applicant. The city shall deny the applicant the license if the applicant has:

1. Committed any act consisting of fraud or misrepresentation;
2. Committed any act which, if committed by a licensee, would be grounds for suspension or revocation of a license;
3. Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to his or her fitness to engage in the occupation of peddler, and including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;
4. Been charged with a misdemeanor or felony of the type defined in subsection (D)(3) of this section, and disposition of that charge is still pending;
5. Been refused a license under the provisions of this chapter; provided, however, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; and
6. Made any false or misleading statements in the application.

E. All peddlers shall conspicuously display on their outer clothing their peddler's license/identification when engaged in peddling activities.

F. The city is authorized to promulgate rules regarding the manner and method of payment, including a prohibition or regulation of payment by check.

G. The peddler's license shall be endorsed with a statement of the type of product or service sold by the licensee. The license is valid only for the product or service specified.

5.21.040 Restrictions on place and time of peddling.

A. No peddler shall engage or attempt to engage in the business of peddling at any home, residence, apartment complex or business that prominently displays a "No Peddlers" or "No Solicitors" sign or "No Trespassing" sign or any other similar sign that communicates the occupants' desire to not be contacted by peddlers.

B. No peddler shall engage in the business of peddling except between the hours of 9:00 a.m. and 8:00 p.m.

C. No peddler shall make any untrue, deceptive, or misleading statements about the product or services offered for sale.

D. No peddler shall make any untrue, deceptive, or misleading statement regarding the

purposes of his/her contact with a potential customer.

5.21.050 Penalty.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor.

5.21.060 Suspension or revocation procedure.

A. In addition to the other penalties provided herein or by law, any peddlers license issued under the provisions of this chapter may be revoked or suspended if the licensee or any of its employees, officers, agents or servants, while acting within the scope of their employment, violates or fails to comply with any of the provisions of this chapter or commits any of the conditions listed in GHMC 5.01.130.A. The city may revoke or suspend any peddlers license issued under the provisions of this chapter by utilizing the procedures set forth in GHMC 5.01.130.

Section 6 - Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 7 - Effective Date. This ordinance shall take effect and shall be in full force and effect five (5) days after its passage, approval and publication as required by law.

PASSED by the Council of the City of Gig Harbor, this 28th day of January.

APPROVED:

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY TOWSLEE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____

FILED WITH THE CITY CLERK: 01/10/13
PASSED BY THE CITY COUNCIL: 01/28/13
PUBLISHED: 02/06/13
EFFECTIVE DATE: 02/11/13
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