

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Ordinance No. 543 Creating Chapter 5.05 of the Shoreline Municipal Code Regarding Business Licenses and Ordinance No. 544 Creating Section 3.01.080 of the Shoreline Municipal Code Establishing a Fee for Business Licenses.
DEPARTMENT:	Finance
PRESENTED BY:	Debbie Tarry, Finance Director Mark Mayuga, Economic Development Manager

PROBLEM/ISSUE STATEMENT:

The Chamber of Commerce has recently endorsed establishing a business license/registration program for the City of Shoreline. The City Council reviewed the proposed ordinances that would create a business license requirement for doing business within the City of Shoreline and recommended a \$50 business license fee on June 15, 2009.

In order to implement a business license program for the City of Shoreline the Council must adopt Ordinance No. 543 creating Chapter 5.05 of the Shoreline Municipal Code (SMC) regarding business licenses and Ordinance No. 544 that will amend Chapter 3.01 of the SMC establishing a \$50 fee for a 12 month business license.

Staff recommends partnering with the State of Washington Department of Licensing to implement the program.

FINANCIAL IMPACT:

At this time staff does not have a complete list of all businesses that will be required to license, but based on our sales tax records a minimum of 1,400 businesses should register, and we anticipate that the actual number of licenses issued will exceed this number. A \$50 fee for 1,400 businesses generates \$70,000 in annual revenue. As required by State law this revenue will be used to off-set the cost of operating the business license program.

At this time staff has not included additional staffing to implement the business license program. We have discussed the staffing impacts of administering the business license program with other cities that are partnering with the State of Washington Master Licensing Service and found that each City is different. Sammamish felt that they had very minimal staffing impact once the initial business letters were distributed. Bellevue and Tumwater, on the other hand, have additional staff to assist with the business license program, but it appears that much of the work done by staff is a result of the business and occupation tax that these cities also levy. Although staff is not recommending additional staffing at this time, Council should be aware that as we

implement this program we will continue to monitor and may have to request additional staffing support if the workload becomes too burdensome for existing staff.

The City will incur technology costs in order to access the State's License database. Additionally the DOL asks that the City establish technical resources so that we can act as a satellite licensing station for improved customer service.

Revenue generated by the program not fully allocated towards these costs will be used in providing education and promotion of the business license program.

RECOMMENDATION

Staff recommends that the City Council adopt Ordinance No. 543 creating Chapter 5.05 of the Shoreline Municipal Code regarding business licenses and Ordinance No. 544 creating Section 3.01.080 of the Shoreline Municipal Code establishing a fee for business licenses.

Approved By:

City Manager 

City Attorney 

INTRODUCTION

In October 2006 the City Council considered adopting City regulations to implement a business license program for the City of Shoreline. At that time the City had a contract to partner with the State of Washington Department of Licensing to implement the program. The City Council did not authorize the business license program so staff ceased working with the State on this program.

In order to implement a business license program for the City of Shoreline the Council must adopt must adopt Ordinance No. 543 creating Chapter 5.05 of the Shoreline Municipal Code (SMC) regarding business licenses and Ordinance No. 544 that will amend Chapter 3.01 of the SMC establishing a \$50 fee for a 12 month business license.

Staff recommends partnering with the State of Washington Department of Licensing to implement the program.

BACKGROUND

Business Licenses

In 2006 the City Council gave staff direction to develop a business license program for regulatory purposes. Staff is assuming that this would still be the intent of the City Council.

Purposes for implementing a regulatory business license for all businesses include:

- Provide the City with a record of the owners and other contact information;
- Provide a master list of businesses and types of businesses that conduct business within Shoreline;
- Provide contact information to disseminate information to businesses relating to City policies, regulations, and economic development; and,
- Provide a listing of businesses that can be used to audit against sales tax receipts to ensure that the City is receiving sales tax from all applicable businesses.

Regulatory business license fees are set at a flat rate per license in an amount designed to recover both the direct and indirect costs of registering the businesses and issuing the licenses, maintaining the files, and any education, compliance or enforcement required to assure that businesses have registered.

State of Washington Master License Services (MLS)

Staff recommends that the City pursue business license partnership with MLS.

The MLS is a program within the State of Washington Department of Licensing that provides a centralized "one-stop" combined-licensing service to state and local agencies and the business community. The combined-licensing allows MLS to provide a single, centralized process on behalf of many different licensing agencies. Businesses indicate the licenses they need on a Master Application form, along with some specific information required of individual agencies. A business that operates in many cities may obtain the required licenses for any State agencies or cities that participate in the MLS program at one-time. Applicants complete the single application and pay all

required fees for the various agencies with a single check. A separate application must be filed for each physical business location, a common requirement of city business license programs. The application is processed at MLS, where the appropriate fees and information are then distributed through an automated process to each licensing agency affected by that application.

MLS currently partners with 22 cities to provide licensing services. This includes the cities of Bellevue, Sammamish, and Issaquah in King County.

MLS is supported through the processing fees it charges applicants and licensees directly for the combined licensing services provided. These processing fees are currently \$15 to file a Master Application, regardless how many licenses are requested on the application; and \$9 to file a renewal, again regardless of the number of licenses being renewed. For Shoreline businesses that are already obtaining a license through the Department of Licensing, the business is already paying this processing fee when they file their master license application.

The alternative that the City has is to implement a business license program independently. This would require the City purchasing a software product that would help the City maintain the database of the licenses, along with supporting the annual renew and billing of license fees. Staff anticipates that the one-time investment cost of this software would be anywhere from \$15,000 to \$30,000 and annual maintenance fees of \$1,500 to \$3,000. This does not count the time invested by staff to learn and implement the software. In addition to this, it is likely that the City would need to hire a 0.5 to 1.0 FTE to staff the license program. Estimated cost for this position would be \$35,000 to \$70,000 annually. Businesses would be required to comply with the City's business license programs independently of any State registration requirements. Staff believes that a partnership with MLS will be more efficient not only for City operations, but also for businesses.

Process

Before MLS will start working with the City on the implementation of a business license program they are requiring that the City adopt the attached ordinances and then approve an interlocal agreement with them for the project. This is to assure that the City is going to move forward with the program before a substantial amount of staff and MLS time is invested in the project.

Below is a proposed timeline to implement the business license program. It is still tentative as it is dependent on the adoption of the attached ordinances and the workload of MLS. MLS is currently underway with implementing a business license program with two other cities and as such would require that the City start implementation of the program in the fall of 2009. The tentative action items and timelines that MLS has developed include:

Items that can be initiated once the City Council adopts the required ordinances and signs an interlocal with MLS:

1. The City should develop and implement a communication plan to explain its business licensing requirements to local businesses.

2. MLS will provide the City an extract from its database of businesses based on "Shoreline" being the City listed in the business location address.
3. The City will review this list and add any businesses that can be identified as existing in Shoreline. The City will use this list to develop an initial mailing list.
4. MLS and the City will develop a letter to be sent to the businesses.

To be completed September 15, 2009:

1. The City mails the initial letters, including any fees due such as the \$50 license fee, to the businesses. The completed letters and fees are to be returned to MLS. MLS will be responsible for obtaining missing information from applications received. Applications would have an October 30, 2009 due date.

To be completed November 15, 2009:

1. The City would send a second mailing to non-respondents. Responses would be due by December 31, 2009.

To be completed early 2010:

1. In 2010 the expiration of the City's business licenses and the required State licenses will be synchronized. After this initial conversion/proration/renewal process, the City's accounts will be on the regular MLS annual renewal cycle, based on their specific common expiration date.
2. The City will continue to monitor sales tax information, applications for permits, and business listings to ensure that all businesses obtain the required business license.

Business License Regulations

Ordinance No. 543 will create Chapter 5.05 of the SMC establishing business license policies and regulations. The primary regulations contained within the ordinance include:

Exemptions to the business license requirement

All businesses doing business within the City will be required to obtain a City business license with the following exceptions:

- o Government agencies
- o Sales by farmers or gardeners of their own farm products raised and grown exclusively upon lands owned or occupied by them.
- o Casual and isolated sales, such as garage sales conducted at a residence, provided, that not more than four such sales are made during the calendar year. It is not the City's intent to have persons making infrequent casual sales to obtain business licenses.
- o Delivery of goods by a vehicle to a customer by a business where the sale occurred on a business premises outside of the city and the only event occurring within the City is a delivery.
- o Baby-sitting, delivery of newspapers, lawn mowing, car washing, and similar activities conducted by minors.
- o Persons leasing one rental unit or a private residence.

In 2006 the City Council asked about exempting businesses from the business license program if they had annual gross receipts less than \$12,000. Staff has confirmed with

MLS that they cannot use a gross receipts threshold to automatically exempt businesses. As such if Council wanted to use a gross receipts threshold it would be up to businesses to decide if they should obtain a business license or not based on their gross receipts.

It is staff's recommendation that we do not establish an exemption for businesses that generate less than \$12,000 in annual gross receipts. The primary reasons for this include:

- Many businesses that have annual gross receipts less than \$12,000 must still register for various State licenses or registration with MLS. MLS handles the registration for a number of State agencies including Department of Revenue, Employment Security and Labor & Industries. Many of these businesses would still be registering and/or obtaining licenses for State purposes through MLS even if the City exempted them from obtaining a City business license.
- As businesses are exempted from having to obtain a business license the City's ability to capture a full inventory of businesses that do within business in Shoreline is diminished.
- Relatively few cities use a gross receipts threshold to establish a business license exemption.

Fee

All businesses applying for a business license will pay the same flat fee except nonprofit organizations. MLS will verify with the Secretary of State that a business that claims to be exempt from the license fee has received this designation.

Staff has clarified with MLS whether it is just 501(c) nonprofits or all non-profits that would be exempt. This is a policy decision for the Council, as either can be done. If the City only wants to exempt 501(c) nonprofits then these organizations will be required to submit their 501(c) certificates with their business license application. MLS will manually verify this. On the other hand, if the Council wishes to allow all nonprofits to be exempt from the license fee, then MLS can automate the process and verify against the Secretary of State's non-profit registration that a business is registered as a non-profit. MLS is willing to do either, but most cities have chosen to exempt all non-profits and have MLS automate the process. Staff recommends that the City's ordinance allow all non-profits to be exempt from the license fee. These businesses will still be required to obtain a license, but will be exempt from paying the fee.

Expiration Dates

After the initial conversion the City license expiration date will be coordinated with the expiration date of all other licenses or permits required by the State for each business.

Requirement for licenses for individual businesses

- Businesses that are required to obtain a specialty business license from the City will still be required to do so. The City requires specialty business licenses for certain businesses and activities that require an extra level of scrutiny because they may have impacts on the health, safety and welfare of the community.

Examples include: public dance halls, massage businesses, pawn brokers, second hand dealers, solicitors, and adult entertainers.

- A separate business license is required for each individual location within the City.
- Businesses that conduct business within the City, but do not have a physical location within the City, will be required to obtain a City license.
- A separate license is required for each business operated on a single premises. (i.e, Starbucks and Fred Meyer)
- A business license will not be transferable.

Appealing a denial

A business that is denied a business license may appeal this decision to the City's hearing examiner.

Fees

Business License Fee: Council will amend Chapter 3.01 of the Shoreline Municipal Code (SMC), by adopting Ordinance No. 544, to adopt the recommended business license fee of \$50 for a twelve month license. Fees collected by MLS will be remitted to the City on a regular basis.

At this time there are no City delinquent fees proposed as MLS has its own delinquent fees and will handle that paperwork for the City as well. Delinquent fees are usually 50% of the original fee.

MLS Processing Fee: An existing business that is adding a City of Shoreline license to their account after the initial conversion process will pay the \$9 renewal fee and file a Master Application and City Addendum. After that, new businesses that do not have an account with MLS will pay a \$15 processing fee the first time they obtain any required State and/or a City of Shoreline business license. A single handling fee is assessed for all the required licenses for each physical location.

The processing fee is not a new fee for any businesses which already obtain State or other city licenses through MLS. MLS retains all processing fees. Processing fees are in addition to the City's business license fee.

SUMMARY

The recommended policies of the City's business license program align closely with the requirements of many other cities. The City's business license program will enable the City to monitor the number and types of businesses doing business in the City, provide an additional method to assure that the City is receiving sales tax from appropriate businesses and provide information on City programs and services to businesses. The partnership between the City and MLS will allow the City to implement the business license program with a lower administrative cost than if the City were to implement this program independently.

RECOMMENDATION

Staff recommends that the City Council adopt Ordinance No. 543 creating Chapter 5.05 of the Shoreline Municipal Code regarding business licenses and Ordinance No. 544

creating Section 3.01.080 of the Shoreline Municipal Code establishing a fee for business licenses.

ATTACHMENTS

Attachment A – Ordinance No. 543 Adopting Chapter 5.05 of the Shoreline Municipal Code regarding business licenses.

Attachment B – Ordinance No. 544 Adopting Section 3.08.010 of the Shoreline Municipal Code establishing a fee for business licenses.

ORDINANCE NO. 543

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON ESTABLISHING A BUSINESS LICENSE FOR THE REGISTRATION OF BUSINESSES OPERATING WITHIN SHORELINE, AND ADDING CHAPTER 5.05 TO THE SHORELINE MUNICIPAL CODE

WHEREAS, there are many resources available to the business community to assist in their success and the business licensing program can be a tool to help inform the business community of those resources; and

WHEREAS, implementing a business license program is considered to be a sound management practice; and

WHEREAS, the City desires to have all businesses register with the City in order to facilitate the dissemination of information to businesses relating to City policies, regulations and economic development; and

WHEREAS, the registration of all businesses will assist the City in the audit of sales tax receipts; and

WHEREAS, the State of Washington's Department of Licensing Master Licensing Service program provides the opportunity for the City of Shoreline to partner with the Department of Licensing to provide a centralized, "one-stop" combined-licensing service between the City, the State, and the business community ;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. New Chapter. A new Chapter 5.05 "Business Licenses" is added to the Shoreline Municipal Code as follows:

Section 5.05 BUSINESS LICENSES

Section 5.05.010	Chapter and purpose
Section 5.05.020	Definitions—general
Section 5.05.030	License required—notices
Section 5.05.040	Application and renewal
Section 5.05.050	License term or expiration
Section 5.05.060	Fee
Section 5.05.070	Exception—applicability of provisions
Section 5.05.080	Penalty for late renewal
Section 5.05.090	Violation—Penalty
Section 5.05.100	License—suspension, denial or revocation
Section 5.05.110	Additional enforcement

5.05.010 Chapter and purpose. Maintenance of current information with respect to business, trade, service, commercial and professional activities carried on within the City is allows the City to carry out the duties and authorities delegated to it by the Washington State Constitution and the laws of the State of Washington as a noncharter code city. . Such information can best be accumulated and maintained on a current basis through the establishment of a program for the licensing and registration of such activities. The licensing and registration program established is established to protect the public and not intended to benefit any individual or class.

5.05.020 Definitions—general

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section.

- A. "Business", "occupation" or "pursuit" means and includes all home occupations, wholesalers, retailers, service providers, towing operators, peddlers, canvassers, solicitors, for-hire vehicles, limousine services, pawnbrokers, secondhand dealers and junk dealers engaged in with the object of economic gain, benefit or advantage to the person, firm or corporation, or to another person or class, directly or indirectly, whether part-time or full-time, whether resident or nonresident.
- B. "City" means the City of Shoreline, Washington.
- C. "Clerk" means such city employees or agents as the city manager shall designate to administer this chapter, or any designee thereof.
- D. "Engage in business" means commence, conduct, or continue 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.
- E. "Person," "firm," or "corporation," used interchangeably in this chapter, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, canvasser, peddler, solicitor, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof.
- F. "Rental Unit" means a separate room or apartment leased for human occupancy and contained within a single structure, and shall include the operations of rooming houses, boarders within private residences and the operation of bed and breakfast establishments.

5.05.030 Business License required—Notices

It is unlawful for any person, firm or corporation to engage in any business, occupation or pursuit as defined in Section 5.05.020, in the city without first having obtained a business license therefore as provided in this chapter, except those businesses or activities for which a regulatory business licenses or franchise is required by any other chapter or section of the Shoreline Municipal Code as now or hereafter enacted or amended. The

business license provided for in this chapter shall be posted in a conspicuous location at the place of the business. Such business license is nontransferable.

5.05.040 Application and renewal.

- A. Application for a business license shall be made by filing a Master Application through the State Department of Licensing's Master License Service, in coordination with the City Clerk, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter. Persons applying for a license must pay a fee as established by the city council by ordinance, and the Master License Service's handling fee.
- B. A business license must be approved by the city before a business commences operation within the City. If business is transacted by one person at two or more separate locations within the City a separate application must be filed for each business location and a separate license shall be obtained and displayed in each location.
- C. The Clerk may refer applications to the Planning and Development Services Department, the Police Department, or other governmental agencies for their review. Compliance with building, zoning and other laws is the business owner's responsibility and issuance of a business license is not a guarantee of compliance or a waiver of future enforcement by the City or other agency with jurisdiction.
- D. If more than one business is conducted or operated on a single premises, a separate license shall be required for each business. Each business owner must make a separate application for license.
- E. The filing of an application for a license, or the renewal thereof, or the payment of any application or renewal fee, shall not authorize a person to engage in or conduct a business until such license has been granted or renewed.
- F. A business license is not nontransferable. No licensee shall allow another person to operate a business under, or display the license issued to their business, nor shall another person operate under or display the license issued to another business. A person who acquires an existing business must make application for a city business license before commencing business within the city with that business. A licensee must report a change of location of the business to the Master License Service, in coordination with the City Clerk. A change of the location of a business requires approval by the city before business may commence at the new location, and may require submitting a new Master Application and payment of fees.
- G. License renewals are handled by the Master License Service in coordination with the City. Renewal of the city license requires payment of fees including handling fees.

5.05.050 License term or expiration.

Each city license issued shall expire on the date determined by the Master License Service, in coordination with the City. The City license fee may be prorated to coordinate with the expiration date assigned by the Master License Service.

5.05.060 Fee.

- A. The fee for the business license required by this chapter shall be established by ordinance of the City Council. The fee may be pro-rated as necessary to conform to Section 5.05.050.
- B. The license fee shall be in addition to any license fee or tax imposed or levied under any law or other ordinance of the City except as otherwise expressly provided.
- C. If conducting business within the city, businesses registered with the Washington Secretary of State as a nonprofit corporation must obtain a city business license, but are exempt from paying the city's business license fee.

5.05.070 Exception – applicability of provisions.

This chapter shall not be applicable to:

- A. The performance of governmental or proprietary functions by any instrumentality of the United States, the State of Washington, or any political subdivision thereof.
- B. Sales by farmers or gardeners of their own farm products raised and grown exclusively upon lands owned or occupied by them;
- C. Casual and isolated sales, including garage sales conducted on residential premises in compliance with land use ordinances; provided, that not more than four such sales are made during the calendar year;
- D. The delivery of goods by vehicle to a customer or client by a business where the sale occurred on a business premises outside of the City and the only event occurring within the City is a delivery;
- E. Baby-sitting, delivery of newspapers, lawn mowing, car washing, and similar activities conducted by a minor.
- F. One leased rental unit or private residence.

5.05.080 Penalty for late renewal. Licenses must be renewed annually on or before the expiration date, or expiration of any prorated period. Failure to renew a business license by the license expiration date may result in the assessment of a late renewal penalty of 50% of the renewal fee. Non-renewal may require reapplication for the city license, and approval by the city.

5.05.090 Violation—penalty. Any violation of this chapter shall constitute a misdemeanor and the punishment shall be as provided by the laws of the State of Washington.

5.05.100 License – Suspension, denial or revocation.

- A. A business license may be denied, suspended or revoked by the clerk whenever the licensee or any of its officers, directors, agents, owners or employees fail:
 - 1. To maintain the licensed premises or business activity in compliance with applicable health, building, fire and safety laws, ordinances or regulations;
 - 2. To comply with the requirements of this chapter.

- B. The clerk shall, by certified mail, give written notice to the applicant of denial of a license or to the licensee of suspension or revocation of a license, including a summary of the complaints, objections and information considered by the clerk and the reason(s) for the action. Notice mailed to the mailing address on the application or most recent renewal shall be deemed received three days after mailing. The clerk's decision may be appealed to the City hearing examiner upon payment of the appropriate appeal fee.
- C. Any suspension or revocation shall remain in effect until the conditions causing the suspension or revocation are cured and reasonable measures are taken to ensure that those conditions will not recur.
- D. Appeals of any license suspension, revocation or denial shall be heard by the Shoreline Hearing Examiner. An Appeal Statement must be filed with the City Clerk within fourteen (14) days of the decision being appealed.

5.05.110 Additional enforcement. Notwithstanding the existence or use of any other remedy, the city attorney may seek legal or equitable relief to enjoin any acts or practices, which constitute or will constitute a violation of any business license ordinance or other regulations herein adopted.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date and Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect 30 days after publication.

PASSED BY THE CITY COUNCIL ON _____.

Mayor Cindy Ryu

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

ORDINANCE NO. 544

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON ESTABLISHING A \$50 BUSINESS LICENSE FEE AND ADDING SECTION 3.01.080 OF THE SHORELINE MUNICIPAL CODE

WHEREAS, implementing a business license program is considered to be a sound management practice; and

WHEREAS, the registration of all businesses will assist the City in the audit of sales tax receipts; and

WHEREAS, the City desires to charge a flat rate for all businesses that are required to obtain a license;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. New Section. A new Section 3.01.080 "Business License Fees" is added to the Shoreline Municipal Code as follows:

3.01.080 BUSINESS LICENSE FEES

- A. The fee for a twelve month business license required by Chapter 5.05 of the Shoreline Municipal Code shall be \$50. The fee may be pro-rated as necessary to conform to Section 5.05.070 of the Shoreline Municipal Code.
- B. The license fee shall be in addition to any license fee or tax imposed or levied under any law or other ordinance of the City except as otherwise expressly provided.
- C. The license fee shall not be required of organizations which have been determined by the Internal Revenue Service (IRS) of the United States to be exempt from the payment of income tax and whose charitable contributions would be deemed tax deductible and listed as such with the Washington Secretary of State.

Section 2. Fee Review. The City Manager shall review the revenue generated from this fee will be reviewed in December 2011 to determine if adjustments should be made to the business license fee.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this

ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date and Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect 30 days after publication.

PASSED BY THE CITY COUNCIL ON _____.

Mayor Cindy Ryu

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

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