

ORDINANCE NO. 2012-10-047

**AN ORDINANCE RELATING TO BUSINESS REGISTRATIONS IN THE CITY OF BELLINGHAM, AMENDING BELLINGHAM MUNICIPAL CODE SECTIONS 6.05, 6.05.025, 6.05.030, 6.05.230, 6.06.030, 6.08, 6.08.001, 6.08.010, 6.08.020, 6.08.025, 6.08.030, 6.08.050, 6.08.080, 6.08.110, 6.08.334, 6.18.030, 6.18.050, 6.18.100, 6.18.110, 6.18.150, 6.26.010, 6.26.040, 6.26.050, 6.30.040, 6.30.150, 6.30.190, 6.32.020, 6.54.030, AND 6.54.190 TO MAKE BUSINESS REGISTRATION APPLICATION PROCEDURES CONSISTENT WITH THE STATE BUSINESS LICENSING SERVICE AND TO UPDATE PROVISIONS THAT GOVERN THE GROUNDS FOR DENIAL AND REVOCATION OF BUSINESS REGISTRATIONS.**

**WHEREAS**, the Bellingham Municipal Code requires anyone doing business in the City of Bellingham to obtain a business registration from the City Finance Department,

**WHEREAS**, there are several sections of the Bellingham Municipal Code that govern business registrations and licenses for certain businesses,

**WHEREAS**, the City of Bellingham wishes to amend its business registration application process to improve efficiency, which benefits both the internal processes City of Bellingham and the public,

**WHEREAS**, to improve the business registration application process for the City of Bellingham and the public, the City wishes to process applications in coordination with the Washington State Business Licensing Service under RCW 19.02.075,

**WHEREAS**, adoption of and amending the Bellingham Municipal Code in regard to all provisions that govern business registrations is necessary to improve efficiency and the desired change in practice of coordinating with the State licensing system,

**WHEREAS**, adopting and amending the Bellingham Municipal Code in regard to business registrations is necessary to effectuate the new practice and change and clarify the code to reflect this practice, and

**WHEREAS**, modifying code provisions relating to the issuance, denial, and revocation of business registrations and licenses is necessary given the change in the application process.

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1. Title 6.05 of the Bellingham Municipal Code shall be amended to read as follows:**

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**6.05 - GENERAL BUSINESS REGISTRATIONS AND ADMINISTRATIVE PROVISIONS  
FOR CERTAIN TAXES**

**Section 2. Section 6.05.025 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.05.025 - Business Registration - Terms - Application**

**A.** No person, whether subject to the payment of a tax or not, shall engage in any business or activity in the City without having first obtained and being the holder of a valid and subsisting registration to do so, to be known as a business registration, issued under the provision of this chapter and without having paid the fee or tax imposed by this chapter and, in addition, having submitted the registration fee as administratively established and promulgated in writing by the Director and the handling fee charged by the Washington State Business Licensing Service under RCW 19.02.075, which shall accompany the application therefor.

**B.** The business registration issued hereunder is separate from any license that may be required under Title 6 of the Bellingham Municipal Code, and shall be valid as long as the person to whom the same is issued continues in business, complies with the terms of this chapter and pays the fees and taxes due pursuant to the provisions of this chapter. Application for a City of Bellingham business registration shall be made to the Washington State Business Licensing Service on forms provided and pursuant to procedures adopted for that purpose.

**C.** **Business Licensing Service** means the office within the Washington State Department of Revenue handling the application for the City of Bellingham Business Registration and issuing the document to registered taxpayers to display at the respective places of business.

**Section 3. Section 6.05.030 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.05.030 - Business Registration - Non-Transferability - Separate Registration Required  
- Contents - Change Of Location**

**A.** The Bellingham business registration shall be personal and nontransferable. A new registration is required any time the person, business entity, ownership or form of doing business changes.

**B.** In case business is transacted in the City at two or more separate physical locations by one taxpayer, a separate registration for each location at which business is transacted shall be required and separate tax reports must be submitted for each such business location.

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C. Each Business License document issued by the Business Licensing Service for the Bellingham business registration will show the Unified Business Identifier number, and the name and place of business of the taxpayer, and shall at all times be conspicuously posted in the place of business for which it is issued.

D. When the place of business of the taxpayer is changed, the taxpayer shall submit a change of address to the Business Licensing Service. A change of physical location of a business may require the filing of a new registration application through the Business Licensing Service, and payment of associated fees, as described in this chapter.

E. No person to whom a registration has been issued pursuant to this chapter shall allow any other person for whom a separate registration is required to operate under or display his or her registration; nor shall such other person operate under or display another person's registration.

**Section 4. Section 6.05.230 of the Bellingham Municipal Code shall be amended to read as follows:**

***6.05.230 - Denial, Suspension or Revocation of Business Registration***

A. The Director, or designee, shall have the power and authority to deny, suspend or revoke any registration issued under the provisions of Title 6 of this Code. The Director, or designee, shall notify such taxpayer in writing by certified mail of the denial, suspension or revocation of his or her registration and the grounds therefor. Any registration issued under Title 6 of this Code may be denied, suspended or revoked based on one or more of the following grounds:

1. The registration was procured by fraud, false representation or omission of fact;
2. The license is used or intended to be used for a business materially different from that applied for;
3. The business violates any of the requirements of this chapter;
4. The business or licensee, or any employee or agent of the business or licensee engages in, intends, or seeks to engage in an activity that is contrary to law;
5. The business operates in a manner that constitutes a nuisance pursuant to state law, or the Bellingham Municipal Code;
6. The business or licensee is in violation of a zoning or land use regulation of the City;

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7. The licensee is not eighteen (18) years of age or older at the time the registration is applied for;
8. The licensee or business has had a similar license denied or revoked and has not corrected the basis for denial or revocation;
9. The taxpayer failed to comply with any provisions of this Title 6 of the BMC.
10. The taxpayer failed to comply with any provisions of this Code.
11. The taxpayer is in default in any payment of any fee or tax under this Code.

**B.** Any taxpayer may, within 10 days from the date that the denial, suspension or revocation notice was mailed to the taxpayer, appeal from such suspension or revocation by filing a written notice of appeal ("petition") setting forth the grounds therefor with the Hearing Examiner. A copy of the petition must be provided by the taxpayer to the Director and the City Attorney on or before the date the petition is filed with the Hearing Examiner. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in BMC 2.56 as currently enacted or hereafter modified. After the hearing thereon the Hearing Examiner shall, after appropriate findings of fact and conclusions of law, affirm, modify, or overrule the denial, suspension or revocation and reinstate the registration, and may impose any terms upon the continuance of the registration.

**C.** No suspension or revocation of a registration issued pursuant to the provisions of this subchapter shall take effect until 10 days after the mailing of the notice thereof by the Department and if appeal is taken as herein prescribed the suspension or revocation shall be stayed pending final action by the Hearing Examiner. All registrations that are suspended or revoked shall be surrendered to the City on the effective date of such suspension or revocation.

**D.** The decision of the Hearing Examiner shall be final. The taxpayer and/or the Department may seek review of the decision by the Superior Court of Washington in and for Whatcom County within 21 days from the date of the decision. If review is sought as herein prescribed the suspension or revocation shall be stayed pending final action by the Superior Court.

**E.** Upon revocation of any registration as provided in this subchapter no portion of the registration fee shall be returned to the taxpayer.

**Section 5. Section 6.06.030 of the Bellingham Municipal Code shall be amended to read as follows:**

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**6.06.030 - Occupation License - Required**

**A.** No person shall engage in or carry on any business, occupation, pursuit, or privilege for which a license fee or tax is imposed by this chapter without having first obtained, and being the holder of, a valid and subsisting license so to do, to be known as an occupation license. Such license is in addition to the general business registration required by Chapter 6.05 BMC.

**B - C [no change].**

**Section 6. Title 6.08 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08 - BUSINESS LICENSES AND REGULATIONS - CARNIVALS AND SIDEWALK VENDING**

**Section 7. Section 6.08.001 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08.001 - Purposes**

This chapter is enacted as an exercise of the revenue and police power of the City, to raise funds and to preserve the public peace, health, safety and welfare, by regulating business activities that relate to carnivals and similar businesses and sidewalk vending as described in this chapter. The City does not intend to act in restraint of any trade, to create monopolies, or to discriminate against one business in favor of another; the provisions of this chapter are to be construed to attain these ends. An applicant under this chapter for a carnival or similar business or sidewalk vending business shall also comply with the terms for general business registrations as governed by Chapter 6.05 BMC.

**Section 8. Section 6.08.010 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08.010 - License-Required**

It is unlawful for any person, company, or corporation to engage in or carry on any business, trade, profession, or calling, for the transaction of carrying on of which a license is required in the City under this chapter, without first procuring a license in accordance with this chapter and chapter 6.05. No license granted under this chapter shall authorize the carrying on of any such trade, occupation, or public amusement beyond the limit of time for which said license has been granted; and the carrying on, conducting, or engaging in any of the trades, occupations, or public amusements or sidewalk vending in the City for which a license is

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required under the provisions of this chapter without having procured such a license therefor shall constitute a distinct and separate offense for each and every day that such business, trade, occupation or public amusement is engaged in, carried on or conducted. Such license is in addition to the general business registration required by Chapter 6.05 BMC.

**Section 8. Section 6.08.020 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08.020 - License-Application-Issuance**

**A.** Any person desiring a license for an activity regulated by this chapter shall complete an online or written City Business License Addendum through the State of Washington's Business Licensing Service, providing at least the following information:

1. The name, mailing address, and signature of the owner;
2. The business name of the owner, if relevant;
3. The location of the activity or a statement that the business is mobile;
4. The type of activity to be conducted;
5. The first date of business in the City of Bellingham;
6. Such other relevant information as may be required on the State of Washington's license application form or by the City's Finance Director.

**B.** Upon receipt of the completed application and any required fee, the Finance Director may refer the application to any other department of the City with a legitimate interest in such activities, for investigation and screening. Such investigation and screening shall be accomplished in no more than 10 days, unless the Finance Director extends the period for an additional 10 days for good cause.

**C.** The Finance Director may deny any license application if presented with sufficient evidence that the issuance would be contrary to the health, safety or welfare of the citizens of the City, or contrary to law. The Finance Director shall also have the authority to deny or revoke a license pursuant to BMC 6.05.230(A).

**D.** If the Finance Director is satisfied that there is no legitimate cause to deny the issuance of the license pursuant this chapter or BMC 6.05.230(A) he or she shall issue it.

**Section 9. Section 6.08.025 of the Bellingham Municipal Code shall be amended to read as follows:**

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**6.08.025 - License Appeals**

An appeal by any person applying for, or holding, a license under this chapter, who is aggrieved by an action of the Finance Director or other city official in connection with a license, shall be governed by BMC 6.05.230(B), (C), (D) and (E).

**Section 10. Section 6.08.030 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08.030 - License-Contents-Exhibition on Demand**

**A.** Each license issued under this chapter shall contain at least the name in full of the person to whom it is issued, the kind of business authorized, and the period of its validity. The license shall be signed by the Finance Director or his designee before becoming valid. Standard business licenses with the City shall be signed by the Director of the State of Washington's Department of Revenue.

**B.** Every person holding a license shall, upon demand, exhibit the same to any City officer or member of the police force of the City.

**Section 11. Section 6.08.050 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08.050 - License-Revocation or Forfeiture**

**A.** A person holding a license found to be in breach of any ordinance of the City regulating the business therein licensed or convicted of any offense reasonably related to the business therein licensed, the Finance Director may declare such license forfeited without repayment and thereupon said license shall be forfeited. The Finance Director shall also have the authority to deny or revoke a license issued under this chapter pursuant to the grounds stated in BMC 6.08.020(C).

**B.** The conditions contained in this section shall be made a part of each license issued by the City.

**Section 12. Section 6.08.080 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08.080 - License-Display**

Every person having a Washington State Business License with the City's endorsement (Business Registration certificate) shall exhibit the same at all times while in force in some

conspicuous place in his place of business or, if such person has no place of business, he shall carry the same with him.

**Section 13. Section 6.08.110 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08.110 - Violation-Penalty.**

**A.** Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$1,000 and shall be imprisoned for a period not to exceed 90 days.

**B.** Each person, firm, or corporation shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable therefor as provided by subsection A of this section.

**Section 14. Section 6.08.334 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.08.334 - Sidewalk Vending - Items For Sale**

The Director of Planning and Community Development shall approve any item or service for sale by sidewalk vendors based on the following criteria:

**A - D [no change].**

**Section 15. Section 6.18.050 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.18.050 - License Required**

It is unlawful for a person to canvass, solicit or telephone solicit within the city without having a current license, as provided in this chapter. Such license is in addition to the general business registration required by Chapter 6.05 BMC.

**Section 16. Section 6.18.100 of the Bellingham Municipal Code shall be amended to read as follows:**

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**6.18.100 - Denial and Revocation**

Licenses issued under this chapter may be denied or revoked by the Finance Department subject to appeal pursuant to BMC 6.18.110. Licenses may only be revoked for good cause including, but not limited to:

- A. Fraud, misrepresentation, or false statement contained in the application for license.
- B. Fraud, misrepresentation, or false statement made in the course of carrying on the business of canvassing or soliciting.
- C. Any violation of this chapter.
- D. Any felony or misdemeanor conviction directly related to the fitness of licensee to carry on the activities of canvassing or soliciting.
- E. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- F. Any grounds listed in BMC 6.05.230(A).

**Section 17. Section 6.18.110 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.18.110 - Appeal Procedure**

Any person aggrieved by denial or revocation of a license may file an appeal with the Hearing Examiner. The appeal under this subsection shall be governed by BMC 6.05.230(B), (C), and (D).

**Section 18. Section 6.18.150 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.18.150 - Violation-Penalty**

Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000, or by imprisonment not to exceed 90 days, or both such fine and imprisonment. Each day upon which such violation shall occur or upon which such violation shall continue shall constitute a separate offense.

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**Section 19. Section 6.26.010 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.26.010 - License - Required - Terms**

**A.** It is unlawful for any person, company, or corporation to distribute handbills, circulars, dodgers, pamphlets, or samples in the City without first procuring a license in accordance with this chapter; and no license granted under this chapter shall authorize such distribution beyond the limit of time for which the license has been granted, and every such act shall constitute a distinct and separate offense. Such license is in addition to the general business registration required Chapter 6.05 BMC.

**B - C [no change].**

**Section 20. Section 6.26.040 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.26.040 - License - Denial and Revocation; Appeal**

The Finance Director may deny or a revoke a license under this chapter. The Finance Director may deny or revoke whenever it appears the licensee has violated any provision of this chapter or any provision of BMC 6.05.230(A). Anyone aggrieved by the denial or revocation may appeal to the Hearing Examiner. An appeal under this subsection shall be governed by BMC 6.05.230(B), (C), and (D). The decision to deny or revoke or not to revoke for violation of the provisions of this chapter shall not relieve the licensee from liability to punishment under penalties provided in Section 6.26.050.

**Section 21. Section 6.26.050 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.26.050 - Violation - Penalty**

Violation of the provisions of this chapter shall subject the offender to payment of a fine of not to exceed \$1,000 or imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment.

**Section 22. Section 6.30.040 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.30.040 - License - Application**

An application for an Adult Entertainment license shall be made on a form provided by the City. Such license is in addition to the general business registration required by Chapter 6.05

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BMC. A separate license shall be obtained for each category of business defined in Section 6.30.020(A) and for each location. Any person desiring to operate an Adult Entertainment business shall file with the City Finance Director the original and 2 copies of a completed and sworn license application together with the following information:

A - K [no change].

**Section 23. Section 6.30.150 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.30.150 - Suspension or Revocation of License**

A license granted under this chapter may be suspended or revoked by the Finance Director, after investigation and upon the recommendation of the City Attorney, Police Chief, Fire Chief, Planning Director or the Whatcom County Health Officer, where one or more of the following conditions exist:

- A. The license was procured by fraud or misrepresentation of a material fact in the application or in any supporting documentation, or
- B. The business or business premises, entertainer or manager, after 30 days written notice of noncompliance, continues to be in violation of any provision of this chapter or of any other applicable law or regulation, or
- C. The licensee, operator or any employee has knowingly allowed, in or upon the premises, any violation of Section 6.30.100(C) or (D) or 6.30.110(D), (E) or (F).
- D. Any of the grounds listed in BMC 6.05.230(A).

The Finance Director shall provide at least 10 days prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the Hearing Examiner as provided in this chapter, and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension.

A license procured by fraud or misrepresentation shall be revoked. Where the conditions listed in subsections B or C of this section are found, the license shall be suspended for a period of 30 days upon the first such violation, 90 days upon the second violation within a 24 month period, and revoked for third and subsequent violations within a 24 month period, not including periods of suspension.

A licensee whose license has been revoked may reapply for a new license one year after the effective date of the revocation.

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**Section 24. Section 6.30.190 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.30.190 - Violation - Penalty**

Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. Any person violating any of the provisions of this chapter shall also be subject to license suspension or revocation as provided in this chapter.

**Section 25. Section 6.32.020 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.32.020 - Teen Dance or Dance Hall License - Required - Exceptions**

**A.** No person shall conduct or operate a teen dance or teen dance hall unless the person who is conducting or operating such teen dance hall has obtained a license in accordance with the provisions of this chapter. Such license is in addition to the general business registration required by Chapter 6.05 BMC.

**B.** [no change].

**Section 26. Section 6.54.030 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.54.030 - Business License Required**

It is unlawful for an owner to engage in or carry on any taxicab or for-hire vehicle business without first procuring a business license as provided in BMC 6.04.010 - 6.04.300. Such license is in addition to the general business registration required Chapter 6.05 BMC.

**Section 27. Section 6.54.190 of the Bellingham Municipal Code shall be amended to read as follows:**

**6.54.190 - Misdemeanor - Penalty**

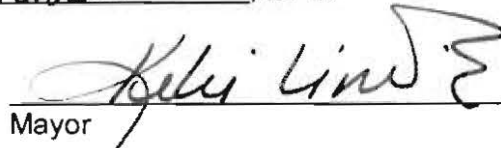
Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both such fine and imprisonment. Each day upon which such violation shall occur or upon which such violation shall continue shall constitute a separate offense.

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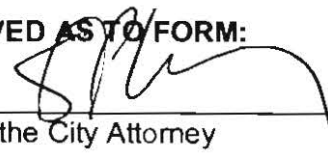
**PASSED** by the Council this 8th day of October, 2012.

  
\_\_\_\_\_  
Council President

**APPROVED** by me this 12th day of October, 2012.

  
\_\_\_\_\_  
Mayor

**ATTEST:**   
\_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**  
  
\_\_\_\_\_  
Office of the City Attorney

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