

City of Cheney
609 Second Street
Cheney, Washington 99004

**CITY OF CHENEY, WASHINGTON
ORDINANCE V-06**

**AN ORDINANCE OF THE CITY OF CHENEY,
WASHINGTON, ADOPTING BUSINESS LICENSING
REGULATIONS FOR THE CITY OF CHENEY AND
OTHER MATTERS PROPERLY RELATED THERETO.**

WHEREAS, state law authorizes cities to adopt regulations for licensing of businesses operating within their municipal boundaries; and

WHEREAS, the Mayor and City Council desire to establish a registration system which will assist the City in clarifying the composition of the commercial and business community;

WHEREAS, the business license fee will enable the City of Cheney to better serve businesses by providing earlier information on building, fire and zoning regulations;

WHEREAS, implementation of a business license fee is intended to help the City be more proactive in accounting for significant sales tax revenue activity occurring in the boundaries of the City of Cheney;

WHEREAS, the City desires to enact a business licensing ordinance for the purpose of protecting the City's residents from potentially unfair and deceptive business practices;

WHEREAS, business license revenues can be used to further economic development activities for new and existing businesses within the City of Cheney;

WHEREAS, the recovery of the administrative costs associated with the registration system may be borne through implementation of a business license fee.

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

Section 1. **New Chapter.** There is hereby added to the City of Cheney Municipal Code a new Chapter 5.01 entitled as "Business License Regulations".

Section 2. New Section. There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.010, to read as follows:

5.01.010 Definitions. For the purposes of this Chapter, the following definitions shall apply:

A. "Business" means all kinds of vocations, occupations, professions, enterprises, establishments, industries, services and all other kinds of activities and matters that are conducted for private profit or benefit on any premises in the City of Cheney.

B. "City" means the City of Cheney, Spokane County, Washington.

C. "Engaging in business" means commencing, conducting, or continuing in business, 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.

D. "Peddler" means any Person engaging in the following:

1. the business of selling or delivering goods or services within the City from a fixed or temporary location as an itinerant vendor; or
2. traveling from door to door as the principle means of conducting business offering, exposing for sale, or selling within the City any goods, merchandise, service or product; or
3. engages in any business in the City with no permanent location.
4. A "Peddler" is not a person who engages in constitutionally protected expressive activity in the public right-of-way unless the person engages in business activities. Constitutionally protected expressive activities conducted in the public right-of-way shall include, but is not limited to, street performers. For the purposes of this section, a street performer means an individual, including street musicians, who performs any form of artistic expression. The voluntary contribution of money or other items of value by members of the public to the individual in association with the expressive activity shall not result in the requirement of obtaining a business license.

D. "Person" means any individual, corporation, company, firm, joint stock company, partnership, joint venture, trust, business trust, club, association, society, or any group of individuals acting as a unit or otherwise.

E. "Tax year" means the calendar year commencing January 1 and ending on December 31.

Section 3. New Section. There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.020, to read as follows:

5.01.020 Business License Required. Every person engaging in business or continuing business during the tax year shall register with the City Clerk/Treasurer by completing a licensing form and paying a licensing fee. Such fee shall be a pro-rata portion of the fee established by Resolution of the City Council.

Businesses with a permanent location outside the City but no permanent location within the City, and which engage in business within the City or with the City, must obtain a business license.

Section 4. New Section. There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.030, to read as follows:

5.01.030 Exemptions. The following entities and activities shall be exempt from the provisions of this Ordinance:

1. All governmental entities including public and private elementary, secondary, high schools, and universities;
2. Deliverers of newspapers and periodicals;
3. Deliverers to and persons soliciting orders from retail establishments for the delivery and sale of goods, wares and merchandise to retailers for resale unless located within the City;
4. Any person or organization conducting a nonprofit enterprise when the enterprise is operated without private profit, for a public, charitable, educational, literary, fraternal or religious purpose;
5. Minors engaged in babysitting;
6. Sales by farmers/gardeners of their own produce;
7. Temporary craft booths;
8. Any person, firm, or corporation that the City is forbidden to tax by law; and
9. Any person engaged in the casual sale of items of personal property where the person conducting such sale is not regularly engaged in the business of selling items of personal property (for example, garage sales and bake sales).

Section 5. New Section. There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.040, to read as follows:

5.01.040. Application Procedure.

A. Application for a business license shall be made in writing to the City Clerk/Treasurer upon a form provided by the City. The application shall state the name of the business, the address or addresses of the business, the name of the applicant and such other information as requested by the City Clerk.

B. If the applicant is a partnership, the application must be made by one of the partners; if a corporation, by one of the officers thereof; if a foreign corporation, partnership or nonresident individual, by the resident agent or local manager of the corporation, partnership or individual.

Section 6. New Section. There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.050, to read as follows:

5.01.050 Fee – Terms – Penalty.

A. The Business license fee assessed for the tax year April 1st, 2009 through December 31st, 2009 shall be a pro-rata portion of the fee established by Resolution of the City Council.

Effective January 1, 2010, each business shall be assessed an annual license fee for the period of January 1 through December 31st as set forth by Resolution of the City Council. The fee shall not be prorated.

B. Unless exempted by Sections C or D below, the business license fee for any business to be operated within the City of Cheney shall be set Resolution of the City Council. All business license fees collected pursuant to this Chapter shall be used as economic development funds for businesses located within the City of Cheney.

C. Persons whose gross business revenues do not exceed twelve thousand dollars (\$12,000.00) per calendar year are entitled to a reduced business license fee, as set forth by Resolution of the City Council. Any applicant for a reduced fee must present sufficient proof of gross revenues to the City Clerk/Treasurer.

D. Persons engaging in business within the municipal limits of the City for less than 90 days or a Peddler shall pay the licensing fee as set forth by Resolution of the City Council.

E. Payment of the license fee shall be made either upon application for the business license or for an existing business on or before January 31 of the year it is due. No fee is deemed paid until the City has received funds.

F. Any business which fails to obtain and pay the license fees within said period of time shall, in addition to any other penalties provided in this Ordinance, be assessed an amount

equal to fifty percent (50%) of the license fee for the business as a penalty for such late application and/or payment.

Section 7. **New Section.** There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.060, to read as follows:

5.01.060 **Transfer or Sale of Business – New License Required.** Upon the sale or transfer of any business licensed by this Ordinance, the license issued to the prior owner or transferor shall automatically expire on the date of such sale or transfer and the new owner intending to continue such business in the City shall apply for a new business license pursuant to the procedures established by this Ordinance.

Section 8. **New Section.** There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.070, to read as follows:

5.01.070 **Multiple Businesses and Locations.**

- A. If a person operates two or more businesses, not related, a license is required for each business.
- B. If the business is operated in two or more locations and is the same business, one license only is required, but secondary location licenses shall be furnished in the number necessary to cover all locations, and each location shall have a license.

Section 9. **New Section.** There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.080, to read as follows:

5.01.080 **Change of Business Name or Address.** If a business changes names or locations during a license year, a revised license must be obtained for the remainder of that license year to reflect the change of name or address. The Clerk/Treasurer will issue a new business license which reflects the change of name or location.

Section 10. **New Section.** There is hereby added to the Cheney Municipal Code in Title 5, entitled "Business License Regulations", a new section identified as Section 5.01.090, to read as follows:

5.01.090 **Penalty for Violation.** Any person, as defined herein, and the officers, directors, managing agents, or partners of any corporation, firm, partnership or other organization or business violating or failing to comply with any provisions of this ordinance shall be subject to collection activities. After notice of the amount due, the City may assign the

delinquent amount for collection to a third party in which case the amount due shall include the license fee, penalty and any collection charges.

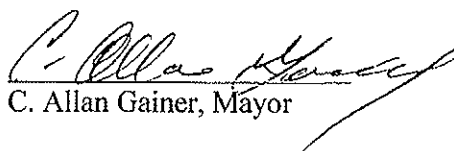
Section 11. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 12. Effective Date. This ordinance shall be in full force and effect, thirty (30) days after passage, approval and publication.


Introduced this 10th day of March, 2009.

Passed by the City Council this 14th day of April, 2009.

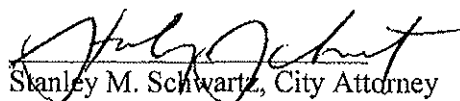
Approved by the Mayor this 14th day of April, 2009.


C. Allan Gainer, Mayor

ATTEST:


Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:


Stanley M. Schwartz, City Attorney