

City of Cheney
609 Second Street
Cheney, Washington 99004

**CITY OF CHENEY, WASHINGTON
ORDINANCE X-55**

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

WHEREAS, cities are authorized to adopt regulations for licensing of businesses operating within their municipal boundaries;

WHEREAS, the City requires persons engaging in business to register with the City and pay a licensing fee;

WHEREAS, Engrossed House Bill 2005 adopted by the 65th Legislature, 2017 Regular Session, establishes certain requirements with respect to business licenses that take effect on January 1, 2019; and

WHEREAS, the above legislation established a work group to create a model business ordinance which shall be adopted by cities that have general business licensing requirements.

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

Section 1. Amendment. The Cheney Municipal Code Title 5, entitled "Business License Regulations," at Section 5.01.010, is amended as follows:

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

Engaging in business means commencing, conducting, or continuing 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.

(1) This section sets forth examples of activities that constitute engaging in

business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

(2) Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

(a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

(b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

(c) Soliciting sales.

(d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

(e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

(f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.

(g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

(h) Collecting current or delinquent accounts.

(i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

(j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

(k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

(l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

(m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

(n) Investigating, resolving, or otherwise assisting in resolving customer complaints.

(o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

(p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

(3) If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.

(a) Meeting with suppliers of goods and services as a customer.

(b) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

(c) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

(d) Renting tangible or intangible property as a customer when the property is not used in the City.

(e) Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.

(f) Conducting advertising through the mail.

(g) Soliciting sales by phone from a location outside the City.

(4) A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

(5) The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

Section 3. **Amendment.** The Cheney Municipal Code Title 5, entitled "Business License Regulations," at Section 5.01.020, is amended as follows:

5.01.020 Business License Required. Every person engaging in business or continuing business during the tax year shall register with the ~~Department of Revenue~~ by completing a licensing form and paying a licensing fee. Such fee shall be 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. **Amendment.** The Cheney Municipal Code Title 5, entitled "Business License Regulations," at Section 5.01.030, is amended as follows:

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; and
2. 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;

Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the City is equal to or less than \$2,000 and who does not maintain a

place of business within the City shall be exempt from the general business license requirements in this chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.

Section 5. Amendment. The Cheney Municipal Code Title 5, entitled "Business License Regulations," at Section 5.01.040, is amended as follows:

5.01.040. Application Procedure.

A. Application for a business license shall be made to the Department of Revenue 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. Amendment. The Cheney Municipal Code Title 5, entitled "Business License Regulations," at Section 5.01.050, is amended as follows:

5.01.050 Fee – Terms – Penalty.

A. Each business shall be assessed an annual license fee for the period of January 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 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.

D. 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 Department of Revenue has received the funds.

E. 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.

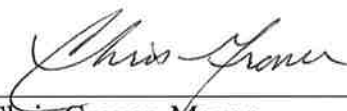
Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 8. Effective Date. This ordinance shall be in full force and effect, thirty (30) days after passage, approval and publication.


Introduced this 27th day of November , 2018.

Passed by the City Council this 11 day of December, 2018.

Approved by the Mayor this 11 day of December, 2018.


Chris Grover, Mayor

ATTEST:


Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:


Stanley M. Schwartz, City Attorney