

Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS

Chapters:

- 5.04 Home Occupations**
- 5.08 *Repealed***
- 5.12 Cable Communications**
- 5.14 *Renumbered***
- 5.16 Peddler's Permits**
- 5.18 Business Licenses**

Chapter 5.04

HOME OCCUPATIONS¹

Sections:

- 5.04.010 Administrative permit required.
- 5.04.020 Notice, approval and/or denial of home occupation business licenses.
- 5.04.030 State licensed facilities.
- 5.04.040 Suspension or revocation procedure.
- 5.04.050 Appeals.

5.04.010 Administrative permit required.

A. Purpose. The city council has determined that there are certain home occupations which should be allowed in the residences in the city by recognizing that there are many people engaged in small business ventures in their homes which could not be sustained if it were necessary to lease commercial quarters or which, in the nature of the home occupation, cannot be expanded to full-scale enterprises. It is the intent of this chapter that full-scale commercial or professional operations which would ordinarily be conducted in a commercial or industrial district shall not be permitted as home occupations. This purpose and intent shall govern the interpretation of this entire chapter.

B. Occupations Incompatible with Residential Use. In keeping with the intent of this chapter, a home occupation shall not under any circumstances include a commercial stable or kennel where pets owned by others are kept, a restaurant, activities involving the repair of body damage to motor vehicles owned by others, or the mechanical repair and service of motor vehicles owned by others.

C. Permit Required. Any person desiring to operate a home occupation in the city shall make application for a business license pursuant to Chapter 5.18 CHMC, and pay the administrative fee established by city resolu-

tion for this purpose as well as the master license service's applicable handling fee.

1. Conditions of Approval of a Business License for Home Occupations. Except for home occupation business licenses for family day care facilities and adult family homes, addressed in CHMC 5.04.030, the following conditions of approval shall apply to business license applications for home occupation businesses. In addition to the information requested in the application, the applicant for a home occupation business license shall submit information to the city to ensure that the siting and operation of the home occupation shall not violate the following conditions of approval:

a. That the home occupation is to be operated within the principal residential building or other structure accessory thereto, and shall utilize no more than 25 percent of the gross floor area of the buildings on the subject lot;

b. That not more than one person will be employed in the home occupation who is not a member of the applicant's immediate family and does not reside in the home on the subject lot;

c. That no exterior display or exterior signage shall be placed or constructed on the subject lot, nor shall there be any other exterior indication of a home occupation or variation from the residential character of the premises;

d. That there will be no noise, vibration, smoke, dust, odors, heat or glare produced by the home occupation distinguishable from that produced by the normal use of a single-family residence; and

e. That there will be no demand for parking beyond that which is normal to a residential area and no unusual or excessive traffic to and from the premises.

D. Effective Date and Expiration. A business license obtained under Chapter 5.18 CHMC shall be effective for one year, and shall expire on the date established by the master license service. Should an applicant apply for a license after the beginning of the license

1. Prior legislation: Ord. 296.

5.04.020

year, the license fee as established by periodic resolution of the city council shall be paid in full and shall not be prorated. The business license renewal procedures established in CHMC 5.18.090 shall apply. (Ord. 904 § 2, 2010; Ord. 903 § 2, 2009; Ord. 725 § 1, 1995; Ord. 700 § 1, 1994; Ord. 536, 1986; Ord. 453 § 1, 1982)

5.04.020 Notice, approval and/or denial of home occupation business licenses.

The procedures for the approval and denial of a business license shall apply as established in CHMC 5.18.100. (Ord. 903 § 2, 2009; Ord. 700 § 3, 1994; Ord. 453 § 3, 1982. Formerly 5.04.030.)

5.04.030 State licensed facilities.

A. Family Day Care Facilities.

1. Notice of Intent to Locate Family Day Care Facility. In order to operate a family day care facility as defined in CHMC 17.04.220, the proposed day care provider shall notify the adjoining property owners within 300 feet of the subject property in writing of his or her intent to locate and maintain a family day care facility in the provider's home. Proof of such written notification shall be submitted to the city prior to the time the provider makes application for state licensing. Any disputes between the neighbors and the day care provider shall be referred to the appropriate state office responsible for day care licensing for resolution.

2. Application for City Approval of Day Care Facility Home Occupation Business License. Any person desiring to site and/or operate a day care facility in the city shall complete an application for the city administrator's review of compliance with this section, and shall pay the business license fee established by periodic resolution and the master license service's handling fee.

3. Requirements for Family Day Care Facilities. The city administrator shall issue a

business license for operation of the family day care facility, which may be located in an area zoned for either residential or commercial use, as long as the following requirements are met:

a. The family day care facility must comply with all building, fire, safety and health code requirements of the city;

b. The family day care provider must obtain a license from the state to operate;

c. The facility in which the family day care is to be provided shall be certified by the state office of child care policy licenser as providing a safe passenger loading area;

d. The family day care facility must conform to lot size, building size, setbacks and lot coverage standards applicable to the zoning district in which the structure is located, unless the structure is a legal nonconforming use; and

e. Any signage provided on the lot upon which the facility is operated shall conform to all regulations applicable to the underlying zoning district.

4. Hours of Operation. The city may limit the family day care facility's hours of operation in order to accommodate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day care and who work a nonstandard work shift.

B. Adult Family Homes.

1. Application for Adult Family Home Occupation Business License. Any person desiring to site and operate an adult family home in the city shall complete an application for the city administrator's review of compliance with this section, and shall pay the business license fee established by periodic resolution and the master license service's handling fee.

2. Requirements for Adult Family Homes. The city administrator shall issue a business license for operation of an adult family home as defined in CHMC 17.04.035, which may be located in an area zoned either for residential or commercial use, as long as

the adult family home meets all other applicable zoning, building, housing and fire codes of the city. (Ord. 904 § 2, 2010; Ord. 903 § 2, 2009; Ord. 725 § 2, 1995; Ord. 700 § 2, 1994; Ord. 453 § 2, 1982. Formerly 5.04.020.)

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5.04.040 Suspension or revocation procedure.

If the administrator has reasonable cause to believe that any of the conditions imposed upon a home occupation business under this chapter have been violated, the administrator shall follow the procedures established in CHMC 5.18.110 to revoke or suspend the business license. (Ord. 903 § 2, 2009; Ord. 700 § 4, 1994; Ord. 453 § 4, 1982)

5.04.050 Appeals.

The city council's decision on the home occupation business license shall represent the final action of the city, unless an appeal is made to the Superior Court of King County, within 10 calendar days of the administrative decision. (Ord. 903 § 2, 2009; Ord. 700 § 5, 1994; Ord. 453 § 5, 1982)

Chapter 5.08

GAMBLING TAX

(Repealed by Ord. 886)

Chapter 5.12

CABLE COMMUNICATIONS

Sections:

- 5.12.010 Definitions.
- 5.12.020 Franchise grant.
- 5.12.030 Franchise purposes.
- 5.12.040 Nonexclusive franchise.
- 5.12.050 Application.
- 5.12.060 Duration.
- 5.12.070 Franchise territory.
- 5.12.080 Police powers.
- 5.12.090 Use of rights-of-way.
- 5.12.100 Pole or conduit agreements.
- 5.12.110 Franchise fees.
- 5.12.120 Taxes.
- 5.12.130 Other authorizations.
- 5.12.140 Rules and regulations of the city.
- 5.12.150 Delegation of powers.
- 5.12.160 Coverage.
- 5.12.170 Technical standards.
- 5.12.180 Construction standards.
- 5.12.190 Street cut or repair.
- 5.12.200 Safety requirements.
- 5.12.210 Regulation of rates and charges.
- 5.12.220 Privacy.
- 5.12.230 Discriminatory practices prohibited.
- 5.12.240 Equal employment opportunity.
- 5.12.250 Reimbursement.
- 5.12.260 Franchise renewal.
- 5.12.270 Franchise revocation.
- 5.12.280 Miscellaneous provisions.

5.12.010 Definitions.

For the purposes of this chapter, the following words, terms, phrases and their derivations have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the singular number include the plural number and words in the plural number include the singular number.

1. “Applicant” means any person or entity that applies for an initial franchise.

2. “Cable Act” means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, and as any of them may be amended.

3. “Cable operator” means any person or group of persons, including a franchisee, who provide(s) cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a cable system.

4. “Cable service” means the one-way transmission to customers of video programming or other programming service, and customer interaction, if any, which is required for the selection or use of such video programming or other programming service.

5. “Cable system” means any facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple customers within a community, but such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves customers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a cable system (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to customers, unless the extent of such use is solely to provide interactive on-demand services; (d) an open video system that complies with federal

statutes and regulations; or (e) any facilities of any electric utility used solely for operating its electric utility systems.

6. “City” means the city of Clyde Hill, a municipal corporation of the state of Washington, and all of the area within its boundaries, as such may change from time to time.

7. “City council” means the Clyde Hill city council, or its successor, the governing body of the city.

8. “Customer” means any person who or which elects to subscribe to, for any purpose, cable service provided by a franchisee by means of or in connection with the cable system and whose premises are physically wired and lawfully activated to receive cable service from franchisee’s cable system.

9. “FCC” means the Federal Communications Commission.

10. “Franchise” means an agreement that authorizes a person or entity to construct, operate, maintain or reconstruct a cable system. Upon the written acceptance by a franchisee, the agreement constitutes a contract between the city and franchisee.

11. “Franchise area” means the area within the jurisdictional boundaries of the city to be served by a franchisee as specified in the franchise.

12. “Franchisee” means the person, firm, corporation or entity to whom or which a franchise, as hereinabove defined, is granted by the city council under this chapter and the lawful successor, transferee or assignee of said person, firm, corporation or entity.

13. “Right-of-way” or “rights-of-way” means all of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and are located within the city: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements and similar public property and areas. (Ord. 878 Exh. A § 1, 2006)

5.12.020 Franchise grant.

It is unlawful to engage in or commence construction, operation or maintenance of a cable system in the city without a franchise issued under this chapter. The city council may, by ordinance, issue a nonexclusive franchise to construct, operate and maintain a cable system within all or any portion of the city to any person or entity, whether operating under an existing franchise or not, who applies for authority to furnish cable service which complies with the terms and conditions of this chapter; and provided, that such person or entity also agrees to comply with all of the provisions of the franchise. However, this shall not be deemed to require the grant of a franchise to any particular person or entity. The city council may restrict the number of franchises should it determine such a restriction would be in the public interest. (Ord. 878 Exh. A § 2, 2006)

5.12.030 Franchise purposes.

A franchise granted by the city under the provisions of this chapter shall:

A. Permit the franchisee to engage in the business of operating a cable system and providing cable service within the city;

B. Permit the franchisee to erect, install, construct, repair, reconstruct, replace and retain wires, cables, related electronic equipment, conduits and other property in connection with the operation of the cable system in, on, over, under, upon, along and across rights-of-way within the city; and

C. Set forth the obligations of the franchisee under the franchise. (Ord. 878 Exh. A § 3, 2006)

5.12.040 Nonexclusive franchise.

Any franchise granted pursuant to this chapter shall be nonexclusive and not preclude the city from granting other or future franchises or permits. (Ord. 878 Exh. A § 4, 2006)

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5.12.050 Application.

A. An applicant for an initial franchise shall submit to the city a written application on a form provided by the city, at the time and place specified by the city for accepting applications, and accompanied by the designated application fee. An application fee in the amount of \$20,000 shall accompany the application to cover costs associated with processing the application, including, without limitation, costs of administrative review, financial, legal and technical evaluation of the applicant, the costs of consultants, notice and publication requirements, and document preparation expenses. In the event such costs exceed the application fee, the applicant shall pay the difference to the city within 30 days following receipt of an itemized statement of such costs. Conversely, if such costs are less than the application fee, the city shall refund the difference to the applicant.

B. An application for an initial franchise for a cable system shall contain, at a minimum:

1. A statement as to the proposed franchise and information relating to the characteristics and location of the proposed cable system;

2. A resume of prior history of the applicant, including the expertise of the applicant in the cable system field;

3. Information demonstrating the applicant's legal, technical and financial ability to construct and operate the proposed cable system;

4. A list of the partners, general and limited, of the applicant, if a partnership, members, if a limited liability company, or the percentage of stock owned or controlled by each stockholder having a five percent or greater interest, if a corporation;

5. A list of officers, directors and key employees of the applicant, together with a description of the background and experience of all such persons;

6. The names and addresses of any parent entity or subsidiary of the applicant or any

other business entity owning or controlling the applicant in whole or in part, or owned or controlled in whole or in part by the applicant;

7. A proposed construction and service schedule;

8. Any other reasonable information that the city may request.

The city shall be allowed the opportunity to ask relevant follow-up questions and obtain further information from whatever source. A refusal by an applicant to cooperate or provide requested information is sufficient grounds for the city to deny an application.

C. Upon receipt of an application for an initial franchise and after obtaining any additional information the city in its sole discretion deems appropriate from any source, a hearing shall be scheduled to allow public comment. At the hearing, the city council shall receive public comment regarding the following:

1. Whether the public will benefit from granting a franchise to the applicant;

2. Whether the applicant appears to have adequate legal, financial and technical qualifications and capabilities to build, operate and maintain a cable system in the city;

3. Whether the applicant has any conflicting interests, either financial or commercial, that will be contrary to the interests of the city;

4. Whether the applicant will comply with all of the terms and conditions placed upon a franchisee by the franchise, this chapter and other applicable local laws and regulations;

5. Whether the applicant will comply with all relevant federal and state laws and regulations pertaining to the construction, operation and maintenance of the cable system.

D. Within 60 days after the close of the hearing, the city council shall decide whether to grant a franchise and on what conditions. The city council's decision shall be based upon the application, any additional information submitted by the applicant or obtained by the city from any source and public comments.

The city council may grant one or more franchises or may decline to grant any franchise. (Ord. 878 Exh. A § 5, 2006)

5.12.060 Duration.

The term of any franchise, and all rights, privileges, obligations and restrictions pertaining thereto, shall be specified in the franchise. The effective date of any franchise shall be as specified in the franchise. (Ord. 878 Exh. A § 6, 2006)

5.12.070 Franchise territory.

The franchise territory shall include all areas within the city or a lesser area as specified in the franchise. (Ord. 878 Exh. A § 7, 2006)

5.12.080 Police powers.

In accepting any franchise, the franchisee acknowledges that its rights thereunder are subject to the police powers of the city to adopt and enforce ordinances necessary for the health, safety and welfare of the public, and it agrees to comply with all applicable laws enacted by the city pursuant to such power. (Ord. 878 Exh. A § 8, 2006)

5.12.090 Use of rights-of-way.

For the purposes of operating and maintaining a cable system in the city, a franchisee may place and maintain within the rights-of-way such property and equipment as are necessary and appurtenant to the operation of the cable system. Prior to construction of the cable system in the rights-of-way, the franchisee shall procure all necessary permits, pay all applicable fees in connection therewith and comply with all applicable laws, regulations, resolutions and ordinances, including, but not limited to, land use and zoning requirements. (Ord. 878 Exh. A § 9, 2006)

5.12.100 Pole or conduit agreements.

No franchise shall relieve franchisee of any of its obligations involved in obtaining pole or conduit agreements from any department of the city, any utility company or from others maintaining facilities in the rights-of-way. (Ord. 878 Exh. A § 10, 2006)

5.12.110 Franchise fees.

The franchisee shall pay the city franchise fees in accordance with the terms of the franchise. (Ord. 878 Exh. A § 11, 2006)

5.12.120 Taxes.

Nothing in this chapter shall limit the franchisee's obligation to pay applicable local, state and federal taxes. (Ord. 878 Exh. A § 12, 2006)

5.12.130 Other authorizations.

Franchisee shall comply with and obtain, at its own expense, all permits, licenses and other authorizations required by federal, state and local laws, rules, regulations and applicable resolutions and ordinances which are now existing or hereafter lawfully adopted. (Ord. 878 Exh. A § 13, 2006)

5.12.140 Rules and regulations of the city.

In addition to the inherent powers of the city to regulate and control any franchise it issues, the authority granted to it by the Cable Act, and those powers expressly reserved by the city, or agreed to and provided for in a franchise, the right and power is reserved by the city to promulgate such additional rules and regulations as it may find necessary in the exercise of its lawful powers and in furtherance of the terms and conditions of a franchise and this chapter, and as permitted by applicable state and federal law. (Ord. 878 Exh. A § 14, 2006)

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5.12.150 Delegation of powers.

Any right or power of the city may be delegated by the city to any officer, employee, department or board of the city, or to such other person or entity as the city may designate to act on its behalf. (Ord. 878 Exh. A § 15, 2006)

5.12.160 Coverage.

Franchisee shall design, construct and maintain its cable system to pass every residential dwelling unit in the franchise area, subject to any density requirements contained within the franchise. (Ord. 878 Exh. A § 16, 2006)

5.12.170 Technical standards.

Franchisee shall construct, install, operate and maintain its cable system in a manner consistent with all applicable federal, state and local laws and regulations, FCC technical standards and any other applicable standards set forth in the franchise. (Ord. 878 Exh. A § 17, 2006)

5.12.180 Construction standards.

A. All facilities constructed or operated under this chapter shall be installed and maintained at such places in or upon such rights-of-way and public places as shall not interfere with the free passage of traffic and the free use of adjoining property, and shall conform to federal standards, state requirements, and city regulations.

B. The franchisee shall be subject to any and all requirements established by the city with regard to the placement and screening of franchisee's facilities and equipment located in the rights-of-way and on other public property. Such requirements may include, but are not limited to, the use of landscaping to screen pedestals and cabinets and a requirement that construction be flush with the natural grade of the surrounding area.

C. The franchisee shall comply with any applicable ordinances, resolutions and regulations of the city regarding geographic informa-

tion systems mapping for users of the rights-of-way; provided, that all similarly situated users of the rights-of-way must also accordingly comply. (Ord. 878 Exh. A § 18, 2006)

5.12.190 Street cut or repair.

The franchisee shall guarantee the durability and structural integrity of any street cut or repair made by it or its agents which is necessary for the construction, installation, operation, repair or maintenance of franchisee's facilities for the life of the street; provided, that no action by an unrelated third party materially affects the integrity of franchisee's street cut or repair. Franchisee shall repair or replace, at no expense to the city, any failed street cut or repair which was completed by franchisee or franchisee's agent(s), as determined by the city. (Ord. 878 Exh. A § 19, 2006)

5.12.200 Safety requirements.

The franchisee shall, at all times, employ professional care and install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. In furtherance thereof, the franchisee must comply with the city's traffic control requirements, including, for example, but without limitation, the use of signal devices, warning signs and flaggers when appropriate. All of franchisee's structures, cables, lines, equipment and connections in, over, under and upon the rights-of-way and public ways or other places in the franchise area, wherever situated or located, shall at all times be kept and maintained in a safe condition. (Ord. 878 Exh. A § 20, 2006)

5.12.210 Regulation of rates and charges.

The city may regulate franchisee's rates and charges to the full extent permitted by law. (Ord. 878 Exh. A § 21, 2006)

5.12.220 Privacy.

The franchisee will be bound by all of the provisions of applicable federal, state and local privacy laws. (Ord. 878 Exh. A § 22, 2006)

5.12.230 Discriminatory practices prohibited.

A. The franchisee shall not deny cable service or otherwise discriminate against customers or others on the basis of race, color, religion, national origin, sex, age, disability or other protected classes.

B. Access to cable service shall not be denied to any group of potential residential customers because of the income of the residents of the local area in which such group resides. (Ord. 878 Exh. A § 23, 2006)

5.12.240 Equal employment opportunity.

The franchisee shall strictly adhere to and comply with the equal employment opportunity requirements of federal, state and local laws. (Ord. 878 Exh. A § 24, 2006)

5.12.250 Reimbursement.

To the extent allowed by applicable law, the city may require a franchisee to reimburse the city for the city's reasonable processing and review expenses, such costs not to exceed \$20,000, in connection with a sale or transfer of a franchise or a change in control of a franchise or franchisee, including, without limitation, costs of administrative review, financial, legal and technical evaluation of the proposed transferee or controlling party, costs of consultants, notice and publication costs, and document preparation expenses. In connection with the foregoing, the city will send franchisee an itemized description of all such charges, and franchisee shall pay such amount within 30 days after the receipt of such description. (Ord. 878 Exh. A § 25, 2006)

5.12.260 Franchise renewal.

Franchise renewals shall be conducted in accordance with applicable law. The city and franchisee, by mutual consent, may enter into renewal negotiations at any time during the term of a franchise. (Ord. 878 Exh. A § 26, 2006)

5.12.270 Franchise revocation.

Any franchise granted by the city may be revoked during the period of such franchise, as provided in the franchise, subject to the procedural requirements provided for therein. A failure by the franchisee to comply with any of the material provisions of this chapter shall be deemed a material violation of a franchise. (Ord. 878 Exh. A § 27, 2006)

5.12.280 Miscellaneous provisions.

A. This chapter shall be construed in a manner consistent with all applicable federal, state and local laws, and shall apply to any franchise hereafter accepted by a franchisee.

B. The captions throughout this chapter are intended to facilitate the reading hereof. Such captions shall not affect the meaning or interpretation of any part of this chapter.

C. A franchisee shall not be relieved of its obligations to comply with any or all of the provisions of this chapter by reason of any failure of the city to demand prompt compliance.

D. The provisions of this chapter shall apply to all cable operators and cable systems to the greatest extent permissible under applicable law. (Ord. 878 Exh. A § 28, 2006)

Chapter 5.14

UTILITIES COMMISSION

(Renumbered to Chapter 2.22 by Ord. 753)

Chapter 5.16

PEDDLER'S PERMITS

Sections:

- 5.16.010 Definition of peddler.
- 5.16.020 Permit required – Exemptions.
- 5.16.030 Permit – Application.
- 5.16.040 Investigation of applicant – Issuance and denial of permit.
- 5.16.050 Permit – Exhibition.
- 5.16.060 Permit – Expiration.
- 5.16.070 Permit – Revocation.
- 5.16.080 Right of appeal.
- 5.16.090 Loud noises or speaking devices.
- 5.16.100 Use of streets.
- 5.16.110 Hours and notice.
- 5.16.120 Records.
- 5.16.130 Penalty for violation.

5.16.010 Definition of peddler.

A peddler is defined as follows:

A. All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the city by going from house to house or from place to place or by indiscriminately approaching individuals.

B. Sales by sample or for future delivery, and executory contracts of sale by solicitors or peddlers are embraced within the preceding subsection; provided, however, that this chapter is not applicable to any salesperson or canvasser who solicits trade from wholesale or retail dealers in the city.

C. Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale, any goods, wares, merchandise or anything of value, stands in a doorway or any unenclosed vacant lot, parcel of land, or in any other place not used by such person as a permanent place of business. (Ord. 622 § 2, 1990)

5.16.020 Permit required – Exemptions.

A. No person, corporation, partnership or other organization shall engage in the business of peddler within the city limits without first obtaining a permit therefor as provided in this chapter. If an individual is acting as an agent for or employed by an individual, corporation, partnership or other organization, both the individual and the employer or principal for whom the individual is peddling must obtain a permit as provided in this chapter.

B. The following persons are eligible for an exemption to the permit requirements and fee provisions of this chapter:

1. Farmers who peddle agricultural, horticultural or farm products which they have actually grown, harvested or produced;

2. Any person who is specifically requested to call upon another for the purpose of displaying goods, literature or giving information about any article, service or product;

3. Charitable, religious or nonprofit organizations or corporations which have received tax exempt status under 26 USC 501(c)(3) or other similar civic, charitable or nonprofit organizations; and

4. Newspaper carriers; provided, however, that any such person must first apply for an exemption on forms to be furnished by the city administrator. Upon determination by the city administrator that such person is exempt from the permit requirements of this chapter, a special permit shall be issued which must be carried by the person at all times the person is engaging in peddling in the city. (Ord. 622 § 2, 1990)

5.16.030 Permit – Application.

A. Applicants for a permit under this chapter must file with the city administrator a sworn application in writing on a form to be furnished by the city.

B. Individuals who are employed by or acting as an agent for another individual, corporation, partnership or other organization shall

provide the following information on the application:

1. Name, date of birth and description of the applicant;

2. Address and telephone number;

3. A brief description of the nature of the business and the goods or services to be sold;

4. If employed or acting as an agent, the name and address of the employer or principal, together with a description of the exact relationship with the principal or employer;

5. If a vehicle is to be used, a description of the same, including the license number;

6. A photograph of the applicant, taken within 60 days immediately prior to the date of filing the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;

7. A statement as to whether or not the applicant has been convicted of any crime within the past 10 years, including misdemeanors or violations of any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefor; and

8. Such other information as may be required by the city.

C. Any individual, corporation, partnership or other organization which acts as the principal or employer for individual peddlers shall provide the following information on the application:

1. The applicant's name, address and telephone number, and the names and addresses of all individuals who are employed by or acting as an agent for the applicant;

2. If a corporation, the names, addresses and telephone numbers of the corporation's board of directors, principal officers and registered agent; provided, however, that the city administrator may waive any portion of this requirement when disclosure would be unduly burdensome;

3. If a partnership, the names, addresses and telephone numbers of the partners;

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4. A list of any criminal convictions during the past 10 years for the applicant, any owners of the business, and if a corporation, the board of directors and officers;

5. The name, address and telephone numbers (business and home) of the individual, if applicable, acting as the manager for the applicant;

6. A list of all other cities, towns and counties where the applicant has obtained a peddlers permit or similar permit within the past five years; and

7. Such other information as may be required by the city.

D. At the time of filing the application, the applicant shall pay a nonrefundable fee in an amount set forth in the city permit fee resolution, to the city to cover the costs of investigation and the issuance of a permit. (Ord. 727 § 1, 1995; Ord. 622 § 2, 1990)

5.16.040 Investigation of applicant – Issuance and denial of permit.

A. The city administrator shall refer the application to the police department which shall determine the accuracy of the information contained in the application and conduct a criminal history background investigation of the applicant. Upon completion, the police department shall forward the results of the investigation, together with a recommendation for approval or denial, to the city administrator.

B. If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the city administrator shall issue the permit to the applicant. The city administrator shall deny the applicant the permit if the applicant has:

1. Committed any act consisting of fraud or misrepresentation;

2. Committed any act which, if committed by a permit holder, would be grounds for suspension or revocation of a permit;

3. Within the previous 10 years, been convicted of a misdemeanor or felony directly

relating to the occupation of peddler, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;

4. Been refused a permit under the provisions of this chapter; provided, however, that any applicant denied a permit under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; or

5. Made any false or misleading statement in the application.

C. The denial of a permit to an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers, shall be a sufficient basis to deny a permit to the individual applicants who are employed by or acting as an agent for the applicant. (Ord. 622 § 2, 1990)

5.16.050 Permit – Exhibition.

Peddlers are required to exhibit their permit at the request of any citizen or police officer. (Ord. 622 § 2, 1990)

5.16.060 Permit – Expiration.

All permits issued pursuant to this chapter are nontransferable and shall be valid for the calendar year in which issued. License fees shall not be prorated for any portion of the year. (Ord. 622 § 2, 1990)

5.16.070 Permit – Revocation.

A. Permits issued pursuant to this chapter may be revoked by the city administrator after notice and hearing for any of the following causes:

1. Fraud, misrepresentation, or false statement contained in the application for permit;

2. Fraud, misrepresentation, or false statement made in the course of carrying on the business as peddler;

3. A violation of this chapter;

4. Conviction after submission of the application for a peddler's permit of a felony or misdemeanor directly relating to the occu-

pation of peddler, including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation; or

5. Conducting the business of peddling in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public.

B. The revocation of any permit held by an individual, corporation, partnership or other organization which serves as the employer or principal for individual peddlers, shall constitute a basis for revoking the permits issued to individual applicants who are employed by or acting as agents for such individual, corporation, partnership or organization.

C. The revocation of a permit for three or more persons who are employees or agents of an individual, corporation, partnership or organization shall constitute a basis for revoking the permit issued to the employer or principal, as well as the permits issued to all other employees or agents of that employer or principal.

D. Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. In addition, it shall state that the peddler's permit shall be suspended pending the outcome of said hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his or her last known address at least 10 days prior to the date set for hearing. If the permit holder is an individual, corporation, partnership or organization which employs or serves as the principal for individual permit holders, the notice shall also be mailed to the individual permit holders. (Ord. 622 § 2, 1990)

5.16.080 Right of appeal.

Any person aggrieved by the action of the city administrator in the denial of an application for permit or in the decision to revoke a permit as provided in this chapter shall have the right to appeal to the city council. Such

appeal shall be taken by filing with the council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for a de novo hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in this chapter for notice of hearing on revocation. The decision and order of the council on such appeal shall be final and conclusive. (Ord. 622 § 2, 1990)

5.16.090 Loud noises or speaking devices.

No peddler, nor any person on the peddler's behalf, shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such peddler proposes to sell. (Ord. 622 § 2, 1990)

5.16.100 Use of streets.

No peddler shall have any exclusive right to any location in the public streets, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced. (Ord. 622 § 2, 1990)

5.16.110 Hours and notice.

No person shall engage in the business of peddler between the hours of 8:00 p.m. and 9:00 a.m. All peddlers shall notify the city administrator at least two hours before any

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peddling activities are to be conducted. (Ord. 622 § 2, 1990)

5.16.120 Records.

The police department shall report to the city administrator all convictions for violations of this chapter, and the city administrator shall maintain a record for each permit issued and record the reports of violations therein. (Ord. 622 § 2, 1990)

5.16.130 Penalty for violation.

Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of up to \$1,000 and/or imprisonment for a term not to exceed 90 days. (Ord. 622 § 2, 1990)

Chapter 5.18

BUSINESS LICENSES

Sections:

- 5.18.010 Purpose.
- 5.18.020 Definitions.
- 5.18.030 Business license requirement.
- 5.18.040 Exemptions.
- 5.18.050 License not transferable.
- 5.18.060 Disclaimer of city liability.
- 5.18.070 Prohibited use.
- 5.18.080 General application procedures.
- 5.18.090 Renewal.
- 5.18.100 Approval or denial of license.
- 5.18.110 Suspension or revocation procedure.
- 5.18.120 Exercise of power.
- 5.18.130 Penalties.

5.18.010 Purpose.

In order for the city to responsibly 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, maintenance of current information with respect to business, trade, service, commercial, and professional activities carried on within the city is necessary and essential for the public health, safety, and welfare. Such information can be best accumulated and maintained on a current basis through the establishment of a program for the licensing and registration of such activities. (Ord. 903 § 1, 2009)

5.18.020 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 or professions located or engaged in within the city with the object of gain, benefit or advantage to the person engaged in the same, directly or indirectly, whether part-time or full-time. Each business location shall be deemed a separate business.

Utility companies subject to utility taxes pursuant to Chapter 3.28 CHMC are defined as businesses unless otherwise exempt in CHMC 5.18.040.

B. “Engaging in business” means commencing, conducting or continuing in any business within the city, whether or not an office or physical location for the business lies within the city. Engaging in business includes the performance of work or services by contractors, consultants, representatives, agents or other persons within the city, even though the office location of the contractor, consultant, representative, agent or other person is not within the city limits; the exercise of corporate or franchise powers, as well as the liquidation of a business when the liquidators hold themselves out to the public as conducting such business; and furnishing temporary employees and/or workers to other businesses.

C. “Person” means any individual, firm, partnership, company, corporation, association, receiver, assignee, trust, estate, joint venture, group, joint stock company, business trust, society or any group of individuals acting as a unit.

D. “Licensee” means any business granted a business license by the city.

E. “Premises” includes all lands, structures and places, and also any personal property, which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

F. “Administrator” is the city administrator or his/her designee. (Ord. 903 § 1, 2009)

5.18.030 Business license requirement.

It is unlawful for any person, firm, or corporation to engage in or carry on within the city any business, profession, trade or occupation designated in this chapter without first having obtained from the city a license to do so. In addition to the business license other permits or licenses may be required for certain businesses. (Ord. 903 § 1, 2009)

5.18.040 Exemptions.

The license requirements of this chapter shall not apply to the following:

A. All businesses operated not-for-profit shall be exempt upon satisfactory proof to the administrator of said not-for-profit status.

B. All peddlers licensed under Chapter 5.16 CHMC.

C. Casual or isolated sales, such as garage sales or Internet sales, made by persons who are not regularly engaged in such business. More than four such sales events made during any tax year constitutes “regularly engaging in business.”

D. Businesses where the sale or contract for services occurs on business premises outside the city or occurs via mail, telephone, Internet or similar means, and the only event occurring within the city is the mere delivery of the goods or services to the customer or client.

E. Minors engaged in babysitting, delivery of newspapers, lawn mowing, car washing, and similar activities.

F. Any instrumentality of the United States, state of Washington, or any political subdivision thereof, with respect to the exercise of governmental functions.

G. Provision of Internet or wireless phone services where the only event occurring within the city is receipt of such services. The location of cell towers within the city does not subject a service provider to the licensing requirements of this chapter.

H. All special events sponsored by the city, but not to include participating commercial peddlers regulated under Chapter 5.16 CHMC.

I. Taxi, limousine, or airporter, or similar services where the business operates from premises located outside the city.

J. The sales or delivery of daily newspapers, whether subscriptions are taken or not, and dissemination of news and information. (Ord. 903 § 1, 2009)

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5.18.050 License not transferable.

No license issued under the provisions of this chapter shall be transferable or assignable. When a business changes ownership, or upon substantial change in the type of business operated, a new business license shall be required. (Ord. 903 § 1, 2009)

5.18.060 Disclaimer of city liability.

The city of Clyde Hill expressly finds and requires that responsibility for compliance with the provisions of this chapter rest with license applicants and their agents and that no action, inaction, or omission of the city or any of its agents or employees shall serve to assume or shift responsibility for compliance with the provisions of this chapter to any other party, including the city. Issuance of a license pursuant to this chapter does not constitute the creation of a duty by the city to indemnify the licensee for any wrongful acts against the public, or to guarantee the quality of goods, services or expertise of a licensee. The issuance of a license does not shift responsibility from the licensee to the city for proper training, conduct, or equipment of the licensee or his agents, employees or representatives, even if specific regulations require standards of training, conduct or inspection. (Ord. 903 § 1, 2009)

5.18.070 Prohibited use.

A license hereunder shall not be issued to any person who uses or occupies or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of any ordinance of the city of Clyde Hill or of the statutes of the state of Washington. The granting of a business license shall in no way be construed as permission or acquiescence in a prohibited activity or other violation of the law. (Ord. 903 § 1, 2009)

5.18.080 General application procedures.

A. Any new nonexempt business shall make application for a business license prior to engaging in business in the city. Application for a license shall be accomplished by filing a master application through the state Department of Licensing's master license service. Persons applying for a license must pay a fee as established by the city council by periodic resolution, and the master license service's handling fee.

B. No license shall be issued until the application has been fully completed and all applicable ordinances have been fully complied with. Issuance of a business license does not relieve an applicant of any obligations to obtain other state or federal licenses required for the business.

C. The administrator may submit all applications to the appropriate city department for their endorsements as to compliance by the applicant with all city regulations which they have the duty of enforcing.

D. The filing of an application for a license, or the renewal thereof, or the payment of any application fee or renewal fee, shall not authorize a person to engage in business until such license has been granted or renewed.

E. City business licenses shall be set to expire on the date established by the master license service. Should an applicant apply for a license after the beginning of the license year, the license fee as established by periodic resolution of the city council shall be paid in full and shall not be prorated. (Ord. 904 § 1, 2010; Ord. 903 § 1, 2009)

5.18.090 Renewal.

A. All businesses shall renew their business license on or before the expiration date established by the master license service. Businesses must pay a renewal fee as established by the city council by periodic resolution and the master license service's handling fee.

B. If any license issued under this chapter is not renewed by the date of expiration of the existing license, the master license service late renewal penalty authorized by RCW 19.02.085 may be charged. A license not renewed within 120 days after expiration may be cancelled. A business with a cancelled license must reapply for a license by filing a new application and paying all applicable fees as described in CHMC 5.18.080 in order to continue conducting business in the city. (Ord. 904 § 1, 2010; Ord. 903 § 1, 2009)

5.18.100 Approval or denial of license.

A. Approval. The administrator shall issue business licenses to all persons who submit an application, pay the fee and are qualified under the requirements of this chapter, except that no business license shall be issued if any of the conditions listed in CHMC 5.18.110(A)(1) through (7) exist or apply to the license applicant or premises proposed to be licensed. Applicants for a business license to conduct a home occupation business must meet the additional criteria for approval established in Chapter 5.04 CHMC.

B. Denial. The administrator shall notify the applicant in writing by certified mail of the denial of the application and the grounds therefor. Within 10 calendar days after receipt of the city's notification of application denial, the applicant may request an appeal and hearing before the city council, by filing a written notice of appeal and paying the applicable appeal fee, as established by resolution of the city. The administrator shall notify the applicant by mail of the time and place of the hearing. If request for hearing is not received within the time specified, the administrator's decision shall be final. Any person desiring to appeal the council's decision must file an appropriate lawsuit in the King County superior court within 10 days of the city council's decision.

C. If an application for a business license is denied and the applicant has filed a timely appeal of such denial, the applicant shall not conduct any business for which a business license was denied, during the pendency of the appeal. (Ord. 903 § 1, 2009)

5.18.110 Suspension or revocation procedure.

A. In addition to the other penalties provided herein or by law, any business license issued under the provisions of this chapter may be revoked or suspended, should any or all of the following conditions apply:

1. The license was procured by fraud, false representation, or material omission of fact; or

2. 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

3. The licensee's continued conduct of the business for which the license was issued has or will result in a danger to the public health, safety or welfare, or the violation of any federal or state law or any ordinance or regulation of the city; or

4. The licensee, or any of its employees, officers, agents or servants has been convicted in any court of violating any federal, state or city criminal statute or ordinance upon the business premises stated in the license; or

5. The place of business does not conform to city ordinance; or

6. The license is being used for a purpose different from that for which it was issued; or

7. The licensee is indebted or obligated to the city for past due taxes, fees, or fines, excluding special assessments such as LID assessments.

B. If the administrator has reasonable cause to believe that any of the conditions listed in subsections (A)(1) through (7) of this section have occurred or exist with respect to any

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existing business license, licensee or licensed premises, the administrator shall send a notice to the licensee of a hearing to be held before the city council, for the purpose of determining whether these conditions have occurred, and whether a permit revocation hearing is warranted under the circumstances.

C. Such notice shall state the conditions that the administrator has reason to believe exist or have occurred, and shall also state the date and time of the city council hearing at which the issue will be considered. Notices to the licensee shall be given by certified mail at least 14 days prior to the date of the hearing. At the hearing, the licensee shall have an opportunity to present evidence and testify in opposition to any evidence or information submitted or presented by the administrator.

D. If the city council decides at the hearing that the licensee has violated the conditions of a license granted under this chapter, the council may revoke the license. Any person desiring to appeal the council's decision must file an appropriate lawsuit in the King County superior court within 10 days of the city council's decision.

E. Upon revocation of any license as provided in this chapter, no portion of the license fee shall be returned to the licensee.

F. A licensee may continue to operate up to the time of the city council hearing on the alleged violations. It is unlawful for any person whose license is revoked to continue operation of the business. The license shall immediately be surrendered to the administrator. (Ord. 903 § 1, 2009)

5.18.120 Exercise of power.

This chapter shall be deemed an exercise of the power of the city to license for revenue and regulation, and nothing in this chapter shall be construed to repeal or affect any other ordinance of the city which purports to regulate some business or activity pursuant to the general police power of the city, notwithstanding

the fact that such ordinance may or might contain provisions relating to the licensing of such activity. (Ord. 903 § 1, 2009)

5.18.130 Penalties.

A. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter and such person shall be subject to the penalties detailed below. Additionally, the license of the business in which the violation occurs may be revoked for such violation, whether the owner knew of or encouraged the violation.

B. Monetary Penalties.

1. Penalties. Any person who operates a business without a license or fails to renew a business license issued pursuant to this chapter may, in the discretion of the administrator, be assessed a maximum penalty of \$250.00. This penalty shall be in addition to the required license fee.

2. Collection. Any license fee due and unpaid and delinquent shall constitute a debt of the city. The city may, pursuant to Chapter 19.16 RCW, use a collection agency to collect unpaid fees or taxes owed or assessed, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies.

C. Criminal Penalties for Repeat Violations. A second or repeat violation of any provision of this chapter shall constitute a misdemeanor punishable by a fine of not more than \$1,000 or by imprisonment not to exceed 90 days or by both fine and imprisonment. Each day or portion thereof during which any violation of any provision of this chapter occurs shall constitute a separate violation and, upon conviction thereof, shall be punished as provided in this section. (Ord. 903 § 1, 2009)