

CITY OF GRANITE FALLS

ORDINANCE NO.761-07

**AN ORDINANCE OF THE CITY OF GRANITE FALLS, WASHINGTON,
ESTABLISHING A NEW CHAPTER 5.30 OF THE GRANITE FALLS
MUNICIPAL CODE RELATING TO THE CITY'S LICENSE PROVISIONS AND
THE ADMINISTRATION OF THE CITY'S BUSINESS AND OCCUPATIONAL
TAX**

WHEREAS, RCW 35.21.710 authorizes cities to levy and collect a tax not to exceed two-tenths of one percent (.2%) on the gross income of persons doing business within the city; and

WHEREAS, in Chapter 5.28 of the Granite Falls Municipal Code and Ordinance No. 674-03 effective January 1, 2004, imposes a business license requirement and regulations; and

WHEREAS, the Washington State Legislature enacted EHB 2030, which requires that, effective January 1, 2008, all cities levying a general business and occupation tax must revise their ordinances to be consistent with the "Model Ordinance" for municipal gross receipts business and occupation tax created through the Washington Association of Cities, including model provisions for the administration and collection of the business and occupational tax; and

WHEREAS, Chapter 5.30 of the Granite Falls Municipal Code as set forth below is consistent with the Model Ordinance;

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

Section 1: Granite Falls Municipal Code Chapter 5.30 entitled "Administrative Provisions for Business and Occupational Tax" is hereby added to read, as follows:

**Chapter 5.30—ADMINISTRATIVE PROVISIONS FOR BUSINESS AND
OCCUPATIONAL TAX**

5.30.010 Purpose. The provisions of this chapter are an exercise of the police and taxation powers of the city to license for revenue purposes and to govern the privilege of engaging in business in the city.

5.30.015 Application of chapter stated. The provisions of this chapter shall apply with respect to the taxes imposed under Ordinance No. 674-03 effective January 1, 2004, or such other title or chapter and section of the Granite Falls Municipal Code in such manner and to such extent as indicated in each such title, chapter or section.

5.30.020 Definitions. For purposes of this chapter:

The definitions contained in Ordinance No. 674-03 effective January 1, 2004, shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions will apply.

"Director." "Director" means: The City's Mayor or the Mayor's designee.

"Reporting period." "Reporting period" means:

- (1) A one-month period beginning the first day of each calendar month (monthly); or
- (2) A three-month period beginning the first day of January, April, July or October of each year (quarterly); or
- (3) A twelve-month period beginning the first day of January of each year (annual).

"Return." "Return" means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City and that has a statutorily defined due date.

"Successor." "Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and no in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

"Tax year," "taxable year." "Tax year" or "taxable year" means the calendar year.

5.30.025 Definitions – References to Chapter 82.32 RCW

Where provisions of Chapter 82.32 RCW are incorporated in 5.30.110 of this Title, "Department" as used in the RCW shall refer to the "Director" as defined in 5.30.020 and "warrant" as used in the RCW shall mean "citation or criminal complaint."

5.30.030 License required--Exemptions.

A. Except as provided in subsection B of this section, every person who engages in business within the city shall apply for and obtain from the director a license for each calendar year or portion thereof, regardless of the amount of income received.

B. The following shall be exempt from the licensing provisions of this chapter:

1. Nonprofit activities carried on by religious, charitable, educational, benevolent, fraternal or social organizations which have been determined by the Internal Revenue Service of the United States to be exempt from the payments of income tax;

2. The performance of governmental or proprietary functions by any instrumentality of the United States, the state of Washington, or any political subdivision thereof;

3. Sales by farmers or gardeners of their own farm products raised and grown exclusively upon lands owned or occupied by them;

4. Casual or isolated sales, including garage sales conducted on residential premises in compliance with this code.
5. The delivery of goods by vehicles to a customer or client by a business where the sale occurred on a business premises outside of the city and the only event occurring within the city is a delivery;
6. Taxi, limousine, airporter, or similar service where the business operates from premises located outside the city;
7. Sales of goods or services by mail, telephone, internet or similar means where the seller operates from premises located outside the city and the only event occurring within the city is receipt of such goods and services;
8. Provision of internet or wireless phone services where the provider operates from premises located outside of the city and the only event occurring within the city is receipt of such services.

5.30.040 License fee.

- A. A business license fee shall be paid to the city in an amount set by ordinance or resolution of the city council.
- B. Payment of the license fee shall be due before business commences and renewed on or before the last day of January of each successive year.
- C. The license fee shall be in addition to any license fee or tax imposed or levied under any law or other ordinance of the city, except as expressly provided.

5.30.050 License—Application and issuance.

- A. A business license must be obtained and the license fee paid before a business commences operation within the city. If business is transacted by one person at two or more separate locations within the city, a separate license shall be obtained for and displayed in each location.
- B. A business license shall expire on December 31st of the year for which it is issued. A new license shall be required for each year and the license fee shall be paid on or before the last day of January.
- C. Applications for business licenses shall be made to the director on forms provided by the city, which shall state the residence of the applicant, the nature of the proposed business, the proposed location of the business, and such other information the director may reasonably request. If the director finds that the application is complete and correct, that all required fees have been paid, and all laws and requirements have been complied with, a business license shall be issued. Business license applications submitted to the city, and business licenses, are public records open to inspection, except as otherwise provided by law.
- D. The director shall, when appropriate, refer applications to the planning department, the police department, the fire district, or other governmental agencies for their review.
- E. Multiple business activities under common ownership may be conducted under a single license.
- F. The filing of an application for a license, or renewal thereof, of the payment of any application or renewal fee, shall not authorize a person to engage in or conduct a business until such license has been granted or renewed.

G. A business license shall be personal and nontransferable, and shall at all times be posted in the place of business for which it is issued. Where a licensee's place of business is changed, the licensee shall return the license to the director and a new license shall be issued for the new place of business without charge. No licensee shall allow another person to operate a business under, or display, the license, nor shall another person operate under or display the license.

H. The city's decision to issue or the issuance of a business license shall not be construed as permission or acquiescence in a prohibited activity or other violation; and the city shall not be held liable for the actions of any licensed business by virtue of having issued a license to conduct business.

5.30.060 When due and payable—Reporting periods—Monthly, quarterly, and annual returns—Threshold provisions or Relief from filing requirements—Computing time periods—Failure to file returns.

(1) Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter or Ordinance No. 674-03 effective January 1, 2004, shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

(2) Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

(3) Tax returns must be filed and returned by the due date whether or not any tax is owed.

(4) For purposes of the tax imposed by this chapter or Ordinance No. 674-03 effective January 1, 2004, any person whose value of products, gross proceeds of sale, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than Five Thousand Dollars (\$5,000) in the current quarter, shall file a return, declare no tax due on their return, and submit the return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

(5) A taxpayer that commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.

(6) Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or City or Federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City or Federal legal holiday.

(7) If any taxpayer fails, neglects or refuses to make a return as and when required in this chapter, the Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the Director's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the

amount of the tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

5.30.070 Payment methods—Mailing returns or remittances—Time extension—Deposits—Recording payments—Payment must accompany return—NSF checks.

(1) Taxes shall be paid to the Director in United States currency by bank draft, certified check, cashier's check, personal check, money order, cash, or by wire transfer or electronic payment if such wire transfer or electronic payment is authorized by the Director. If payment so received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such payment had not been tendered. Acceptance of any sum by the Director shall not discharge the tax or fee due unless the amount paid is the full amount due.

(2) A return or remittance that is transmitted to the City by United States mail shall be deemed filed or received on the date shown by the cancellation mark stamped by the Post Office upon the envelope containing it. The Director may allow electronic filing of returns or remittances from any taxpayer. A return or remittance which is transmitted to the City electronically shall be deemed filed or received according to the procedures set forth by the Director.

(3) If a written request is received prior to the due date, the Director, for good cause, may grant in writing, additional time within which to make and file returns.

(4) The Director shall keep full and accurate records of all funds received or refunded. The Director shall apply payments first against all penalties and interest owing, and then upon the tax, without regard to any direction of the taxpayer.

(5) For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.

(6) Any payment made that is returned for lack of sufficient funds or for any other reason will not be considered received until payment by certified check, money order, or cash of the original amount due, plus a "non-sufficient funds" (NSF) charge of twenty dollars (\$20.00) is received by the Director. Any license issued upon payment with a NSF check will be considered void, and shall be returned to the Director. No license shall be reissued until payment (including the twenty dollars (\$20.00) (NSF fee) is received.

(7) The director is authorized, but not required, to mail tax return forms to taxpayers, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this chapter.

5.30.080 Records to be preserved—Examination—Estoppel to question assessment.

Every person liable for any fee or tax imposed by this chapter shall keep and preserve, for a period of five (5) years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories, stocks of merchandise, and other data including federal income tax and state tax returns and reports shall be open for examination at any time by the Director or its duly authorized agent.

Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

(1) If a person does not keep the necessary books and records within the City, it shall be sufficient if such person (a) produces within the City such books and records as may be required by the Director, or (b) bears the cost of examination by the Director's agent at the place where such books and records are kept; provided that the person electing to bear such cost shall pay in advance to the Director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

(2) Any person who fails, or refuses a Department request, to provide or make available records, or to allow inspection or examination of the business premises, shall be forever barred from questioning in any court action, the correctness of any assessment of taxes made by the City for any period for which such records have not been provided, made available or kept and preserved, or in respect of which inspection or examination of the business premises has been denied. The Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the estimate of the tax or fees due. Such fee or tax assessment shall be deemed prima facie correct and shall be the amount of tax owing to the City by the taxpayer. The Director shall notify the taxpayer by mail the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

5.30.090 Accounting methods.

(1) A taxpayer may file a tax return in each reporting period with amounts based upon cash receipts only if the taxpayer's books of account are kept on a cash receipts basis. A taxpayer that does not regularly keep books of account on a cash receipts basis must file returns with amounts based on the accrual method.

(2) The taxes imposed and the returns required hereunder shall be upon a calendar year basis.

5.30.100 Public work contracts—Payment of fee and tax before final payment for work.

The Director may, before issuing any final payment to any person performing any public work contract for the City, require such person to pay in full all license fees or taxes due under this title from such person on account of such contract or otherwise, and may require such taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or materials to the person in connection with said public work.

5.30.110 Underpayment of tax, interest, or penalty—Interest.

(1) If, upon examination of any returns, or from other information obtained by the Director, it appears that a tax or penalty less than properly due has been paid, the Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Director shall notify the person by mail of the additional amount, which shall become due and shall be paid within thirty (30) days from the date of the notice, or within such time as the Director may provide in writing.

(2)(a) For interest due for periods prior to December 31, 2004, the taxpayer shall pay interest on the amount of underpayment of tax in the amount of twelve (12%) percent per

year, computed from the last day of the reporting period and accruing until payment is made.

(b) For tax periods after December 31, 2004, the Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.

(c) If 5.30.110(2)(b) is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

5.30.120 Time in which assessment may be made.

The Director shall not assess, or correct an assessment for, additional taxes, penalties, or interest due more than four years after the close of the calendar year in which they were incurred, except that the Director may issue an assessment;

- (1) Against a person who is not currently registered or licensed or has not filed a tax return as required by this chapter for taxes due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the Director;
- (2) Against a person that has committed fraud or who misrepresented a material fact; or
- (3) Against a person that has executed a written waiver of such limitations.

5.30.130 Over payment of tax, penalty, or interest—Credit or refund—Interest rate—Statute of limitations.

(1) If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection

(2) of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four (4) years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(2) the execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the Director discovers that refund or credit is due.

(3) Refunds shall be made by means of vouchers approved by the Director and by the issuance of a City check or warrants drawn upon and payable from such funds as the City may provide.

(4) Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in subsection (3) of this section, upon the filing with the Director a certified copy of the order or judgment of the court.

(5) (a) Interest on overpayments for periods beginning before January 1, 2005, shall be six percent (6%) per year accruing from the date the subject return was filed.

(b) For tax periods after December 31, 2004, the Director shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance with RCW 82.32.060 as it now exists or as it may be amended.

(c) If 5.30.130(5)(b) is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

5.30.140 Late payment—Disregard of written instruction—Evasion—Penalties.

- (1) If payment of any tax due on a return to be filed by a taxpayer is not received by the Director by the due date, the Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.
- (2) If the Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.
- (3) If a citation or criminal complaint is issued by the Director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.
- (4) If the Director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the Director a license as required by this Chapter, the Director shall impose a penalty in accordance with RCW 82.32.090(4), as it now exists or as it may be Amended. No penalty shall be imposed under this subsection (4) if the person who has engaged in business without a license obtains a license prior to being notified by the Director of the need to be licensed.
- (5) If the Director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended.
- (6) If the Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Director shall assess a penalty in accordance with RCW 82.32.090(6), as it now exists or as it may be amended.
- (7) The penalties imposed under subsections (1) through (5) above this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.
- (8) The Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.
- (9) For the purposes of this section, "return" means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City, and that has a statutorily defined due date.
- (10) If incorporation into the City's Municipal Code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

5.30.150 Cancellation of penalties.

- (1) The Director may cancel any penalties imposed under subsections 5.30.140(1) if the taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary business care and prudence in making arrangements to file the return and pay the tax but was, nevertheless, due to circumstances beyond the taxpayer's control, unable to file or pay by the due date. The Director has not authority to cancel any other penalties or to cancel penalties for any other reason except as provided for in subsection (3).
- (2) A request for cancellation of penalties must be received by the Director within 30 days after the date the Department mails the notice that the penalties are due. The request must

be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.

(3) The Director may cancel the penalties in subsections 5.30.140(1) one time if a person:

- (a) Is not currently licensed and filing returns,
- (b) Was unaware of its responsibility to file and pay tax, and
- (c) Obtained business licenses and filed past due tax returns within 30 days after being notified by the Department.

(4) The Director shall not cancel any interest charged upon amounts due.

5.30.160 Taxpayer quitting business—Liability of successor.

(1) Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable. Such taxpayer shall, within ten (10) days thereafter, make a return and pay the tax due.

(2) Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the city from the taxpayer until such time as: a) the taxpayer shall produce a receipt from the City showing payment in full of any tax due or a certificate that no tax is due, or b) more than six (6) months has passed since the successor notified the Director of the acquisition and the Director has not issued and notified the successor of an assessment.

(3) Payment of the tax by the successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due such successor from the taxpayer.

(4) Notwithstanding the above, if a successor gives written notice to the Director of the acquisition, and the Department does not within six (6) months of the date it received the notice issue an assessment against the taxpayer and mail a copy of that assessment to the successor, the successor shall not be liable for the tax.

5.30.170 Standards of conduct. Every licensee shall:

A. Permit reasonable inspections of the business premises by governmental authorities for the purpose of enforcing the provisions of this chapter;

B. Comply with all applicable federal, state and city statutes, laws, ordinances and regulations;

C. Refrain from unfair or deceptive acts or practices, or consumer fraud, in the conduct of the business and avoid maintaining a public nuisance on the business premises.

5.30.180 Administrative Appeal.

Any person, except one who has failed to comply with Section 5.30.080, aggrieved by the amount of the fee or tax determined by the Director to be required under the provisions of this chapter may pay the amount due and appeal from such determination by filing a written notice of appeal with the Hearing Examiner as provided in Chapter 19.4 GFMC within 30 days from the date written notice of such amount was mailed to the taxpayer. A filing fee as established by ordinance or resolution adopted by the City Council shall be submitted with the appeal, which filing fee is required to process the appeal. The City shall, as soon as practical, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the parties. The hearing shall be

conducted in accord with the provisions of GFMC 19.4.030. The decision of the Hearing Examiner shall indicate the correct amount of the fee or tax owing.

5.30.190 Judicial Review of Administrative Appeal Decision.

The taxpayer or the City may obtain judicial review of the Hearing Examiner's administrative decision by applying for a Writ of Review in the Snohomish County Superior Court within ten (10) days from the date of the Hearing Examiner's decision in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law, and court rules. The City shall have the same right of review from the administrative decision as does a taxpayer. If an appeal is filed with the Court under this section of a decision suspending or revoking a license, the suspension or revocation shall be stayed pending a final decision by the Court.

5.30.200 Director to make rules.

The Director shall have the power, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions of this chapter and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

5.30.210 Ancillary allocation authority of Director.

The Director is authorized to enter into agreements with other Washington cities which impose an "eligible gross receipts tax":

- (1) To conduct an audit or joint audit of a taxpayer by using an auditor employed by the City of Granite Falls, another city, or a contract auditor, provided, that such contract auditor's pay is not in any way based upon the amount of tax assessed;
- (2) To allocate or apportion in a manner that fairly reflects the gross receipts earned from activities conducted within the respective cities the gross proceeds of sales, gross receipts, or gross income of the business, or taxes due from any person that is required to pay an eligible gross receipts tax to more than one Washington city.
- (3) To apply the city's tax prospectively where a taxpayer has no office or place of business within the City and has paid tax on all gross income to another Washington city where the taxpayer is located; provided that the other city maintains an eligible gross receipts tax, and the income was not derived from contracts with the City.

5.30.220 Mailing of Notices.

Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent by ordinary mail, addressed to the address of the taxpayer or licensee as shown by the records of the Director. Failure of the taxpayer or licensee to receive any such mailed notice shall not release the taxpayer or licensee from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter. It is the responsibility of the taxpayer to inform the Director in writing about a change in the taxpayer's address.

5.30.230 Tax declared additional.

The license fee and tax herein levied shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the City except as herein otherwise expressly provided.

5.30.240 Public disclosure—Confidentiality—Information sharing.

(1) For purposes of this section, unless a different meaning is clearly established by context, the following definitions apply:

(a) “Disclose” means to make known to any person in any manner.

(b) “Tax information” means:

(i) A taxpayer’s identity;

(ii) The nature, source, or amount of the taxpayer’s income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over assessments, or tax payments, whether taken from the taxpayer’s books and records or any other source;

(iii) Whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing; or

(iv) Other data received by, recorded by, prepared by, or provided to the Director with respect to a taxpayer.

PROVIDED, That tax information shall not include data, material, or documents that do not disclose information related to a specific or identifiable taxpayer.

(2) Tax returns and information may be “public records” as that term is defined in RCW 42.17.020. The Director shall not disclose tax information if disclosure would violate Chapter 42.17 RCW or any other law prohibiting disclosure.

(3) Tax information may be disclosed to the following:

(a) The Mayor, City Manager, members of the City Council, City Attorney, City Clerk, or their authorized designees, for official purposes;

(b) Any agency or officer of the United States of America, the State of Washington, or a tax department of any state, county, city or town, provided that the agency or officer grants substantially similar privileges to the City, and further provided that the agency or officer shall not further disclose the tax information except as authorized in this section.

(c) The taxpayer to whom it pertains or to such person or persons as the taxpayer may designate in writing as the taxpayer’s designee; except that tax information not received from the taxpayer shall not be so disclosed if the Director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the Director that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court.

(4) Nothing in this section shall prevent the use of tax information by the Director or any other agency in any civil or criminal action involving any license, tax, interest, or penalty.

(5) A person disclosing tax information to a person not entitled to receive that information under this section is guilty of a misdemeanor, and if the person violating this privacy

requirement is an officer or employee of the City, such person may be required to forfeit their office or employment.

5.30.250 Tax constitutes debt--Enforcement.

(1) Collection. The license fee, any tax imposed under Ordinance No. 674-03 effective January 1, 2008, and all interest and penalties on either, shall constitute a debt to the City and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies. Any judgment entered in favor of the City shall include an award to the City of all Court and collection costs including attorneys' fees. Amounts delinquent more than ninety (90) days may be assigned for collection, in which case, the amount of any collection charges shall be in addition to all other amounts owed.

(2) Nuisance. Engaging in business in the City of Granite Falls without a license as required by this chapter or by Chapter 5.28 GFMC.

5.30.260 Unlawful actions—Violation—Penalties.

(1) It shall be unlawful for any person liable for fees under this chapter (or other chapters as listed):

(a) To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the Director;

(b) To make any false statement on any license application or tax return;

(c) To aid or abet any person in any attempt to evade payment of a license fee or tax;

(d) To fail to appear or testify in response to a subpoena issued by the City's Hearing Examiner;

(e) To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter.

(2) Violation of any of the provisions of this chapter is a gross misdemeanor. Any person convicted of a violation of this chapter may be punished by a fine not to exceed \$1,000, imprisonment not to exceed one year, or both fine and imprisonment. Penalties or punishments provided in this chapter shall be in addition to all other penalties provided by law.

(3) Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a license shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed \$5,000, or imprisonment not to exceed one year, or both fine and imprisonment.

5.30.270 Suspension or Revocation of business registration [license].

A. A business license may be denied, suspended or revoked by the director whenever the director determines that the licensee or any of its officers, directors, agents, owners or employees:

1. Procured the license by fraud or false representation of fact;

2. Failed to maintain the licensed premises or business activity in compliance with applicable health, building, fire, safety laws, ordinances, or regulations;

3. Failed to comply with the requirements of this chapter, Chapter 5.30 GFMC, or any other provision of the city code.

4. Is in default in any payment of any license fee or tax under Chapter 5.30 GFMC; or

5. Has been convicted of a crime involving the business.

Such suspension shall remain in effect until the conditions causing the suspension are cured and reasonable measures are taken to ensure that those conditions will not recur.

B. The director shall, by certified mail, give written notice to the applicant of denial of a license or to the licensee of suspension or revocation of a license, including a summary of the complaints, objections and information considered by the director and the reason(s) for the action. Notice mailed to the mailing address on the application or most recent renewal shall be deemed received three days after mailing. The director's decision may be appealed.

C. No suspension or revocation of a license issued pursuant to this chapter shall take effect until 10 days after the mailing of the notice thereof by the director. All licenses which are suspended or revoked shall be surrendered to the city on the effective date of such suspension or revocation.

D. Upon suspension or revocation of any license as provided in this section, no portion of the license fee shall be returned to the licensee.

5.30.280 Appeal of license denial, suspension or revocation. A person who has had a license denied, suspended, or revoked may appeal to the city hearing examiner as provided in Chapter 19.04 GFMC. If an appeal is filed with the hearing examiner under this section of a decision suspending or revoking a license, the suspension or revocation shall be stayed pending a final decision by the hearing examiner.

5.30.290 Closing agreement provisions.

The Director may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax imposed by any of the chapters within this title and administered by this chapter for any taxable period(s). Upon approval of such agreement, evidenced by execution thereof by the Director and the person so agreeing, the agreement shall be final and conclusive as to the tax liability or tax immunity covered thereby, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

- (1) The case shall not be reopened as to the matters agreed upon, or the agreement modified, by the Director or the taxpayer, and
- (2) In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

5.30.300 Charge-off of uncollectible taxes.

The Director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the Director reasonably ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer. Charge-offs in excess of \$2,500.00 require City Council approval.

5.30.310 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.

Section 2: Repealer. All Ordinances, or parts of Ordinances of the City of Granite Falls in conflict herewith, be and the same, are hereby repealed.

Section 3: 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 4: Publication and Summary. This Ordinance or summary thereof consisting of the title shall be published in the official newspaper of the City.

Section 5: Effective Date. This Ordinance shall be in full force and effect January 1, 2008 after its passage and after publication of the summary consisting of the title as provided by law.

Said Ordinance was passed in open session by the City Council of the City of Granite Falls on the 19 day of DECEMBER, 2007, and signed in authentication of its passage this 19 day of DECEMBER, 2007.


LYLE ROMACK, Mayor

ATTEST:


LOTTA HINES, City Clerk

Approved as to form:


H. James Zachos, City Attorney

DATE OF FIRST AND FINAL READING:
DATE OF PUBLICATION:
EFFECTIVE DATE:

DEC 19 - 2007
DEC 11 - 2007
January 1, 2008