



WASHOE COUNTY

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CM/ACM	<u>KS</u>
Finance	<u>DN</u>
DA	<u>✓</u>
Risk Mgt.	<u>N/A</u>
HR	<u>N/A</u>
Clerk	<u>N/A</u>

STAFF REPORT BOARD MEETING DATE: April 14, 2015

DATE: March 5, 2015

TO: Board of County Commissioners

FROM: Bob Webb, Planning Manager, Planning and Development Division
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THROUGH: William H. Whitney, Division Director, Planning and Development
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SUBJECT: Request for policy direction from the Washoe County Commissioners as to whether Washoe County Code Chapter 25 (Business License Ordinance) should be amended to waive business license fees for not-for-profit businesses and organizations. (All Commission Districts.)

SUMMARY

This item requests policy direction from the Board of County Commissioners (Board) on whether the Business License Ordinance should be amended to waive business license fees for not-for-profit businesses and organizations.

Washoe County Strategic Objective supported by this item: Economic development and diversification.

PREVIOUS BOARD ACTION

The Board initiated amendments to WCC Chapter 25 on February 24, 2015. As part of that initiation action, the Board directed staff to return with best practice research on waiving business license fees for not-for-profit businesses and organizations.

BACKGROUND

The Board's initiation of amendments to Washoe County Code (WCC) Chapter 25, Business License Ordinance on February 24, 2015 included a list of proposed amendments and additional policy direction to exempt General Improvement Districts (GID) from outdoor special event license regulations on lands owned or managed by the GID. The staff report accompanying the initiation also requested Board policy direction on whether business license fees should be waived for not-for-profit businesses and organizations.

Staff provided background information on the potential fee waiver as part of the staff report, which is summarized below:

1. Currently, all businesses operating in the unincorporated County are required to obtain a business license and pay appropriate business license fees, to include “not-for-profit” businesses and organizations.
2. The City of Reno does not require a business license for not-for-profit religious, charitable, scientific, literary, educational, or fraternal organizations [tax exempt entities pursuant to 26 U.S.C. Section 501(c)].
3. Similarly, the City of Sparks does not require a business license for these types of not-for-profit organizations; however, the City does require such organizations to obtain a tax-exempt activity license and pay applicable fees for fire, building or hazardous materials inspections.
4. Staff recommended that not-for-profit businesses and organizations obtain a business license, but that license fees be waived. The business/organization would pay any application or inspection fees required as part of the license approval or renewal process.

Specific to this policy question, Board members questioned how to measure a not-for-profit business or charity’s contributions to the community as an offset to replace or supplement government services particularly if the business/charity would receive a direct benefit by not paying business license fees. Board members were interested in providing such a direct benefit to those not-for-profit businesses or organizations which provide direct and measurable contributions to the community.

The Board directed staff to conduct a nationwide best practice research on the licensing of not-for-profit businesses and similar charities, and to return for further discussion and possible policy direction on whether to exempt such businesses and charities from business license fees. The research should include whether other jurisdictions have a method to measure these businesses/charities contributions to the community as part of the license/fee exemption process.

Staff conducted an internet search of nonprofit and charitable businesses/organizations licensing requirements. Positive results were obtained from jurisdictions in Nevada (Carson City, Henderson, Reno and Sparks), California, Colorado, Georgia, New Mexico, Virginia, and Washington D.C. This sampling of 16 jurisdictions revealed:

- i. None of the jurisdictions require information concerning activities or benefits to the community from the nonprofit and/or charitable business or organization.
- ii. Nine of the jurisdictions require a business license and exempt license fees (or taxes) but do require the payment of application and inspection fees.
- iii. Four of the jurisdictions do not require a business license (or fees). Of these four jurisdictions, two require the business or organization to register as a nonprofit.
- iv. One jurisdiction requires a business license with exempted license fees; however, taxable sales of the business/organization are subject to business license fees.
- v. Two jurisdictions require a special license or permit (e.g., an exempted activity license), but no business license.

All of the jurisdictions require proof of the nonprofit status of the business or organization. Almost all of the jurisdictions require the business or organization to submit a copy of their Internal Revenue Service determination of tax exempt status pursuant to 26 U.S.C. Section 501(c) or (c)(3). Within Nevada, such businesses or organizations could also submit proof of exemption from a State Business License and/or status as a tax-exempt organization formed under NRS Chapter 81. One jurisdiction requires that the proof of continuing nonprofit status be provided with each license renewal.

Most of the jurisdictions also specify that the exemption is limited to organizations operated for: religious, charitable, scientific, literary, educational, public-safety, athletic, community-service, and/or fraternal purposes. One jurisdiction further specifies that the organization does not distribute earnings for the benefit of private individuals, other than the organization's employees, and "lessens the burdens of government". Another jurisdiction states that the receipts of a nonprofit organization are to be used for the benefit of the organization and not for the private gain of any person.

As alluded to in subsection (d), one jurisdiction requires a business license if a nonprofit business or organization engages in business activities not related to their nonprofit functions, and the license fee is collected on those business activities.

Based on this research, many jurisdictions exempt not-for-profit (nonprofit) businesses and organizations from paying business license fees or taxes. However, these jurisdictions do require the business or organization to pay license application fees and other public agency inspection fees. Staff could find no best practice or any references to a jurisdiction evaluating the return or value provided to a community from the nonprofit business/organization. Any such evaluation would be entirely subjective, and staff is concerned about potential bias or unfettered discretion in attempting to create such a subjective evaluation.

Staff recommends the following regarding waiving business license fees for not-for-profit businesses and organizations:

1. Business license fees should be waived for qualifying not-for-profit businesses or organizations. These businesses or organizations must apply for a business license, and pay any application fees¹. They must also undergo any required public health and safety approvals and inspections, and pay any associated public health or safety licenses/permits and/or inspection fees.
2. Licensed not-for-profit businesses or organizations must pay for any renewal application fees or annual public health and safety inspections.

¹ Application fees are charged to recover the administrative costs associated with processing a business license application. Currently, Washoe County only charges application fees for outdoor festival and outdoor community event licenses. The BCC may decide in the future to charge other application fees. Business license fees are currently established in both WCC Chapter 25 and in the Master Business License Fee Schedule. The amendments initiated by the BCC on February 24, 2015 will propose to consolidate all business license fees into the Master Business License Fee Schedule.

3. Business activities not related to the not-for-profit functions of the qualifying business or organization must pay the appropriate business license fees for those activities. A separate business license may be required for those activities.
4. A not-for-profit business or organization is defined as a tax-exempt organization or charity organized pursuant to 26 U.S.C. Section 501(c); organized under NRS Chapter 81; and, operated for athletic, charitable, community-service, educational, fraternal, literary, religious, scientific, and/or public-safety purposes. The term also includes a corporation for public benefit as defined in NRS 82.021. The receipts of a not-for-profit business or organization are to be used for the benefit of the business or organization, and not for the private gain of any person.
5. Qualifying not-for-profit businesses or organizations must provide proof with one of the following at initial license application and upon each annual or quarterly renewal:
 - a. Submit a copy of their current Internal Revenue Service determination of tax exempt status pursuant to 26 U.S.C. Section 501(c)(3); or,
 - b. Exemption from a Nevada State Business License as a Nevada nonprofit corporation formed under NRS Chapter 82; or,
 - c. Submit a copy of their Nevada State Business License showing their exemption as a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. Section 501(c)(3).

FISCAL IMPACT

Staff does not currently identify nor track not-for-profit businesses or organizations within the County's automated licensing database (Permits Plus). Therefore, staff cannot predict how many currently licensed businesses/organizations will no longer pay license fees if exempted as a not-for-profit business/organization. Any future decrease in business license revenues from either new license applications or renewals will be reflected in account number C105402-421101.

RECOMMENDATION

It is recommended that the Board of County Commissioners provide policy direction as to whether Washoe County Code Chapter 25 (Business License Ordinance) should be amended to waive business license fees for not-for-profit businesses and organizations.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to provide the following policy direction as to whether Washoe County Code Chapter 25 (Business License Ordinance) should be amended to waive business license fees for not-for-profit businesses and organizations.”