

**CITY OF NORTH BONNEVILLE
ORDINANCE NUMBER 1108**

AN ORDINANCE OF THE CITY OF NORTH BONNEVILLE, WASHINGTON, AMENDING NORTH BONNEVILLE MUNICIPAL CODE CHAPTER 5.04 BUSINESS LICENSES AND REGULATIONS.

WHEREAS, the 2017 State Legislature passed Engrossed House Bill (EHB) 2005, now codified as Chapter 35.90 RCW, requiring Washington Cities and Towns with business licenses to create a model business license ordinance with a minimum threshold and a definition of "engaging in business"; and

WHEREAS, the City staff recently reviewed the business licensing process and procedures set forth in North Bonneville Municipal Code Chapter 5.04 and determined that updating was needed; and

WHEREAS, the City Council reasonably believes that adoption of this Ordinance is in the furtherance of the health, safety and welfare of citizens of the City.

NOW, THEREFORE, The City Council of the City of North Bonneville do hereby ordain as follows:

Section 1.

Legend: New language added = underlined
 Old language deleted = ~~striketrough~~

**Amending
Chapter 5.04 Business Licenses and Regulations as follows:**

Sections:

<u>5.04.010</u>	Definitions.
<u>5.04.020</u>	<u>Engaging in Business - Defined</u>
<u>5.04.030</u>	License Required.
5.04.030	License Issued.
<u>5.04.040</u>	Fees.
5.04.050	Exemptions.
<u>5.04.050</u>	Revocation of License.
<u>5.04.060</u>	Appeal.
<u>5.04.070</u>	Violation--Penalty.

5.04.010 Definitions.

~~The following terms used in this chapter are defined as follows:~~

"Business License" means a license issued by the City authorizing a Person to engage in business within the City.

"City" shall mean the City of North Bonneville.

~~The word "Person" or word "company,"~~ herein used interchangeably, means any individual, receiver, assignee, trust, estate, firm, corporation, joint venture, club, company, joint-stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise.

The word "business" includes all activities engaged in with the object of monetary gain, benefit or advantage to the person or to another person or class, directly or indirectly, including all rental property of more than two (2) units.

~~"Engaging in business" means commencing, conducting or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.~~

~~"Rental property" means all apartments and two (2) or more rental houses, duplexes or other units owned by the same individual.~~

~~"Transient merchant and door to door solicitor" shall mean one who is a solicitor of goods or services of any kind or nature, who goes from place to place either carrying goods or merchandise or offering services for sale or hire or makes contracts of any nature for future delivery of services or goods, as distinguished from one who transacts a like kind of business in a permanent established place of business, regardless of whether such transient merchant or solicitor occupies a store room or building in the conduct of such business.~~

5.04.020 Engaging in Business – Defined

"Engaging in business"

A. The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public conducting such business.

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

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

1. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.
2. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.
3. Soliciting sales.
4. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
5. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
6. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
7. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
8. Collecting current or delinquent accounts.
9. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

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

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

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

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

14. Investigating, resolving, or otherwise assisting in resolving customer complaints.

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

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

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

1. Meeting with suppliers of goods and services as a customer.

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

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

4. Renting tangible or intangible property as a customer when the property is not used in the city.

5. Attending, but not participating in a "trade show" or "multiple vendor events".

6. Conducting advertising through the mail.

7. Soliciting sales by phone from a location outside the City.

E. A seller located outside the City merely delivering goods in the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (D.). The City expressly intends that engaging in business include any activity sufficient to establish a nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

5.04.030 License required.

A. On or after January 1, 1989 No person shall engage in any business or business activity as defined in Sec. 5.10.020 in 5.04.020 within the City without having first obtained and being issued a Business License. the holder of a valid license to do so, to be known as a "business license," issued under the provisions of this chapter.

B. Each person engaging in any business or business activity shall register with the City immediately upon commencing business in North Bonneville on forms provided by the City, and renew within twenty (20) days after January 1st of each year.

C. A Business License is not transferable. A person acquiring an existing business in the City must obtain a new Business License.

D. The Business License issued by the City shall be displayed in a conspicuous place on the premises identified on the License.

E. This Section applies regardless of whether a fee is owed for obtaining a Business License as provided in this Chapter.

F. A separate Business License shall be obtained for each separate location within the City at which the business is conducted. A separate Business License shall be obtained for each different and discrete business conducted by any person, whether at the same location, within the City, as another licensed business, or at a different location within the City.

G. To the extent set forth in this section, the following persons and business shall be exempt from the registration, license and/or license fee requirements outlined in this Chapter:

1. Any person or business whose annual value of products, gross proceeds of sales or gross income of the business in the City is equal to or less than \$2,000 and who does not maintain a place of business within the City shall be exempt from the general business license requirements of this Chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.

2. Non-profit organizations recognized by the Federal Government as a 501(c)(3) organization, with proper documentation are exempted from the requirement to pay fees associated with the issuance of a Business License as required by this Chapter.

Applicants are required to provide one of the following:

a. Form 1023, Application for Recognition of Exemption; or

b. IRS Determination Letter; or

c. IRS Affirmation Letter

However, non-profit organizations are still required to apply for and obtain a valid Business License and comply with all other provisions of this Chapter.

5.04.030 — License issued.

~~(a) No license shall be issued without proof of registration if such registration is required by the State of Washington. Upon receipt of completed application and payment of fee set forth in Section 5.04.040 a business license shall be issued.~~

~~(b) Said license shall be personal and non-transferable. In case business is transacted at two or more separate places by one taxpayer, a separate license for each place at which business is transacted with the public shall be required. Each license shall be numbered, shall show the name, place and character of business of the license holder and shall at all times be conspicuously posted in the place of business for which it is issued.~~

~~(c) No person to whom a license has been issued pursuant to this ordinance shall suffer or allow any person for whom a separate license is required to operate under or display his license; nor shall such other person operate under or display such license.~~

5.04.040 Fees.

~~A. The license fee shall be for those businesses operating or conducting business from a permanent location within the City shall be set by resolution of the City Council. "Permanent location" shall refer to any business operating or conducting its business from a fixed location with a mailing address for a continuous period of at least thirty (30) days.~~

~~B. The license fee for a "transient merchant and door-to-door solicitor" shall be set by resolution of the City Council.~~

The fees for Business Licenses shall be set by resolution of the City Council.

5.04.050 — Exemptions.

~~The license requirement in this chapter shall not apply to the following:~~

- ~~A. Newspaper carriers~~
- ~~B. Wholesale suppliers of goods, wares and merchandise who have a principal place of business outside the City of North Bonneville.~~
- ~~C. Retail sales by transient merchants and door to door solicitors of fresh fruits and vegetables, dairy products, eggs and honey.~~
- ~~D. Non-profit civic, charitable, fraternal, religious and youth organizations.~~

~~Any person or organization claiming the exemption of this section shall file with the City Clerk an affidavit setting forth facts sufficient to show the application of this section and the right to such an exemption.~~

5.04.050 Revocation of license.

Licenses issued under the provisions of this chapter may be revoked by the Clerk of the City of North Bonneville after notice for any of the following cases:

- A. Fraud, misrepresentation, or false statement contained in the application for license or carrying on his business;
- B. Any violation of this Chapter;
- C. Conviction of any crime or misdemeanor involving moral turpitude;
- D. Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

Notice for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint.

5.04.060 Appeal.

Any person aggrieved by the action of the City in the denial of an application for license as provided for in this chapter or with reference to the revocation of a license, or in the denial of exemption status, shall have the right of appeal to the Council of the City of North Bonneville. Such appeal shall be taken by filing with the Council within the fourteen (14) days after notice of the action. The Council shall set a time and place for a hearing on such appeal and notice shall be given to the appellant in the same manner as provided in Section 5.10.050 of this chapter. The decision and order of the Council on such appeal shall be final and conclusive.

5.04.070 Violation--Penalty.

Any person violating or failing to comply with any of the provisions of this chapter, upon conviction thereof, shall be punishable by a fine in accordance with Section 7.01.020(D) of this code.

Section 2.

Severability.

If any section, sentence, clause or phrase of this Ordinance shall 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 3.

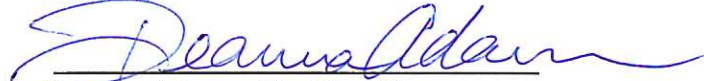
Effective Date and Publication.

This Ordinance shall be effective five days after publication of the Ordinance, or a summary thereof consisting of its title, in the official newspaper of the City.


PASSED BY THE CITY COUNCIL ON OCTOBER 23, 2018


Brian Sabo, Mayor

ATTEST:


Deanna Adams, City Clerk/Treasurer

APPROVED AS TO FORM:


Ken Woodrich, City Attorney