

**CITY OF NORTH BONNEVILLE
ORDINANCE NUMBER 1133**

**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 passed Ordinance 1108 that amended Chapter 5.04 relating to business licenses and regulations to conform to the new state requirements; and

WHEREAS, after input from the State of Washington and review by the City staff regarding the business licensing process and procedures set forth in North Bonneville Municipal Code Chapter 5.04 it was determined that updating was needed; and

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:**

Chapter 5.04

BUSINESS LICENSES AND REGULATIONS

Sections:

5.04.010	Definitions.
5.04.020	Engaging in Business – Defined.
5.04.030	License Required.
5.04.035	<u>Application for Business License.</u>
5.04.037	<u>Business License Renewal.</u>
5.04.040	Fees.
5.04.050	Revocation of License.
5.04.060	Appeal.
5.04.070	Violation--Penalty.

5.04.010 Definitions.

“Business License” means a license issued by the City authorizing a Person to engage in business within the City, regardless whether the business is conducted on a for profit or nonprofit basis, and whether conducted at a commercial or residential location in the City.

“Business Licensing Service” or “BLS” means the office within the Washington State Department of Revenue providing business licensing services to the City.

“City” shall mean the City of North Bonneville.

"Person" or "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.

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. (Ord. 1108, 2018)

5.04.030 License required.

A. No person shall engage in any business or business activity as defined in Sec. 5.04.020 within the City without first being issued a Business License.

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

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

D. The Business License ~~issued by the City shall~~ must 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~~ must be obtained for each separate location within the City at which the business is conducted. A separate Business License ~~shall~~ must 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~~ Bona fide religious organizations, as are automatically qualified for a federal tax-exemption under 26 USC § 501(c)(3), are exempted from all licensing requirements of this chapter but only while conducting their core religious services. All other non-profit organizations, including religious organizations conducting business activities outside of their core religious services, are still required to apply for and obtain a valid Business License and comply with all other provisions of this chapter.

Provided, however, nonprofit organizations recognized by the Federal Government as a tax-exempt organization under a provision of 26 USC § 501(c), and submitting proper documentation of such federal tax exemption, are exempted from the requirement to pay City business license 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.

5.04.035 Application for Business License.

Application for the City business license is made through the Business Licensing Service, and must include all information required for all licenses requested, the total fees due for all licenses, and the application handling fee required by RCW 19.02.075.

5.04.037 Business License Renewal.

The business license issued under this chapter, through the Business Licensing Service (BLS) expires on the date established by the BLS, and must be renewed on or before that date to continue engaging in business in the City after that date.

A. Application for renewal of the business license is made through the BLS, and must include all information required for all licenses involved for renewal, the total fees due for all licenses, and the renewal application handling fee required by RCW 19.02.075.

B. The license term, and respective license fee amount may be prorated as needed to synchronize the license expiration with the expiration of the business account maintained by the BLS.

C. Failure to complete the license renewal by the expiration date will incur the late renewal penalty fee required by RCW 19.02.085 in addition to all other fees due.

D. Failure to complete the renewal within 120 days after expiration of the license will result in cancellation of the license and will require submitting an application for a new license as provided for in this chapter to continue engaging in business in the City. The City may require payment of all past due amounts prior to approving the new license.

5.04.040 Fees.

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

5.04.050 Revocation of license.

Licenses issued under the provisions of this chapter may be revoked by 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. 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 become effective five days after its passage by the City Council, approval by the Mayor, and publication as provided by law.

PASSED BY THE CITY COUNCIL ON JANUARY 26, 2021.

Brian Sabo, Mayor

Attest:

Deanna Adams, City Clerk/Treasurer

Approved as to Form:

Kenneth B. Woodrich, City Attorney