

**CITY OF MERCER ISLAND
ORDINANCE NO. 25C-22**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON
UPDATING CHAPTER 5.01 MICC TO INCLUDE AMENDMENTS REQUIRED
UNDER CHAPTER 35.90 RCW, MUNICIPAL BUSINESS LICENSING,
PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City of Mercer Island's business license requirements, including fees, are adopted in chapter 5.01 MICC; and

WHEREAS, a committee of the Association of Washington Cities (AWC) developed a model ordinance in accordance with RCW 35.90.080(1)(a) for adoption by cities that impose general business license requirements; and

WHEREAS, RCW 35.90.080(1)(c) requires the City to update its business license code to align with updates to mandatory requirements in the model ordinance; and

WHEREAS, the 2018 model ordinance was reviewed and updated by an AWC work group in 2024; and

WHEREAS, the 2024 update amends the exemption from the business license requirement for out-of-city businesses, increasing the minimum threshold amount from \$2,000 to \$4,000 with periodic increases to this threshold tied to inflation, effective January 1, 2026; and

WHEREAS, in addition to the mandatory revisions to chapter 5.01 MICC to include this new minimum threshold exemption and direction for how this threshold will periodically increase, staff proposes revisions to clarify language that is no longer relevant or desired.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Amended. Chapter 5.01 MICC, Business License Code, shall be amended as set forth in Exhibit A to this Ordinance. Exhibit A is incorporated herein by this reference as if set forth in full.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance or any municipal code section amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance or its application to any other person, property, or circumstance.

Section 3. Effective Date of Amendments. Chapter 5.01 MICC, Business License Code, as amended in Section 1 of this Ordinance, shall take effect and be in force on 5 days after its passage and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS MEETING ON SEPTEMBER _____, 2025.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication:

Exhibit A

Chapter 5.01 BUSINESS LICENSE CODE

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5.01.010 Short title.

This chapter shall be known as "the business license code" of the city of Mercer Island and may be cited as such.

5.01.020 Purpose.

The provisions of this chapter shall be an exercise of the power of the city to license for the purpose of revenue and regulation.

5.01.030 Scope.

All persons and businesses engaging in business within the city of Mercer Island shall be subject to the provisions of this chapter regardless of whether or not a place of business within the city is maintained, unless specifically exempted from licensing herein.

5.01.035 Definition of engaging in business.

- A. The term engaging in business (or variations thereof) as used in this chapter 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.
- 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 of this section. 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 the 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, and 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 the 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. Persons participating at a trade show shall review the city's trade show or multiple vendor event ordinances.
 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 into 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 of this section.
- F. The city expressly intends that engaging in business include any activity sufficient to establish 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.

5.01.40 Business license ~~—Required.~~

- A. It is unlawful for any person or business, ~~whether or not a place of business within the city is maintained,~~ to engage in business in the city without ~~first~~ having ~~first~~ obtained ~~and being the holder of a valid and subsisting license to do so, to be known as a "business license,"~~ ("license") from the City ~~and paying the fees, if any, prescribed herein; provided, that persons under the age of 18 years shall not be required to have a business license.~~

- B. Persons or businesses engaging in business in the city, as defined in section 5.01.035, must comply with this chapter regardless of the physical location of the business (i.e., whether inside or outside Mercer Island city limits).
- C. Application for the license is made through the Washington State Department of Revenue's Business Licensing Service. The application must include all information required for all the licenses requested and all fees required for all licenses, as well as the handling fee required by RCW 19.02.075.

5.01.050 Separate ~~general~~ business license required.

- A. If business is conducted from more than one premises in the city that is rented, leased, subleased, or owned by such business, a separate registration and license shall be required for each premises within the city.
- B. If more than one business, as indicated with a separate UBI number, is conducted upon or from a single premises, a separate registration and license shall be required for each separate business conducted, operated, engaged in, or practiced.
~~A separate license shall be obtained for each branch, establishment or location at which the business is carried on, and each license shall authorize the licensee to conduct only that business at that location.~~

5.01.60 License fees—Payment.

- A. The fee for each initial business license required by this chapter and the fee for renewal of each business license shall be established by city council resolution. In addition, separate handling fees may be charged by Business Licensing Service pursuant to RCW 19.02.075. ~~There is levied to be collected from those persons engaging in business in the city annual license fees in such amounts as are established by city council resolution for the following types of licenses:~~

~~1. Original license or renewal license.~~

- ~~a. Home occupation (business conducted within a home in the city of Mercer Island);~~
- ~~b. Resident business (business conducted from place of business located in the nonresidential zone in the city of Mercer Island);~~
- ~~c. Nonresident business (business conducted from place of business located outside city of Mercer Island; no license fee shall be required for nonresident business whose annual value of products, gross proceeds of sales, or gross income of business in the city is equal to or less than \$2,000.00 to obtain a business license).~~

- ~~2. Master exhibitor's license. This license is available for persons who sponsor carnivals, exhibitions or like events where such events do not extend beyond seven days and no more often than twice a year and where multiple individuals are participating. In such cases the master exhibitor must provide to the city a complete and accurate list of participants with names and addresses of those participating. If participants also do business in the city other than during the events covered by the master exhibitor's license, such participants are required to have a separate business license.~~

B. ~~License f~~Fee Exemptions. The following persons or businesses engaging in business in the City shall be required to obtain a business license and to pay the handling fee charged by Business Licensing Service pursuant to RCW 19.02.075, but are not subject to the City license fee:

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 in this chapter. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

Beginning January 1, 2026, the threshold amount is \$4,000.

This threshold amount will be adjusted every forty-eight months on January 1, by an amount equal to the increase in the Consumer Price Index ("CPI") for "West Urban, All Urban Consumers" (CPI-U) for each 12-month period ending on June 30 as published by the United States Department of Labor Bureau of Labor Statistics or successor agency. To calculate this adjustment, the current rate will be multiplied by one plus the cumulative four-year (forty-eight month) CPI increase using each 12-month period ending on June 30 of each prior year and rounded to the nearest \$100. However, if any of the annual CPI increases are more than five (5) percent, a five (5) percent increase will be used in computing the annual basis and if any of the annual CPI decreased during the forty-eight-month period, a zero (0) percent increase will be used in computing the annual basis.

~~B. Such annual license fee shall become due and payable on the first day of each calendar year as to any business required to have a business license under this chapter and in existence on said date. As to any business commenced during the year, the annual license fee shall be due and payable on the first day that business is transacted or carried on. The business license fee shall not be prorated for any part of the year.~~

~~C. Payment made by draft or check shall not be deemed a payment of the fee unless and until the same has been honored in the usual course of business, nor shall acceptance of any such check or draft operate as an acquittance or discharge of the fee unless and until the same is honored.~~

5.01.070 Duration of license License period, renewal, and display.

A. A business license will expire on the date established by the business licensing service and must be renewed on or before that date. The term and respective fee of the license may be prorated to synchronize the expiration date with the date established by the business licensing service.

B. All businesses shall renew their business licenses each year and pay any associated fees. Renewal notification will be generated by the business licensing service 30 days prior to license expiration.

C. Display of License. A license granted under this chapter shall be posted in a conspicuous location in the place of business of the licensee. No person shall allow any license to be posted, displayed, or used after its expiration, suspension, or revocation, or if it is not a valid license for the premises where displayed.

~~All licenses issued pursuant to the provision of this chapter expire on the date established by the business licensing service, unless sooner suspended or revoked in the manner provided in this chapter.~~

5.01.080 ~~License renewal—Filing date, late renewal p~~Penalty for late payment.

~~A. All persons and businesses required to obtain licenses under this chapter shall pay all licensing fees as determined by the city and the business licensing service prior to the expiration of their current license. Any business that fails to obtain and pay the license fees prior to expiration of its current license may be assessed late renewal penalties by Business Licensing Service, as authorized under RCW 19.02.085. Applications for renewal of a license must be made on or before the expiration date established by the business licensing service. The renewal application must be submitted to the business licensing service and include all information required to renew all licenses requiring renewal, and all fees due for all licenses being renewed, as well as the handling fee required by RCW 19.02.075.~~

~~B. A business license that remains delinquent for at least 120 days after the expiration date may be canceled. After cancellation, a person or business must reapply for a business license as provided in this chapter in order to continue engaging in business in the cCity. Failure to renew the license by the expiration date will incur the late renewal penalty required by RCW 19.02.085. Failure to renew within 120 days after the expiration date will result in cancellation of the license and will require submission of a new application for license in order to continue to conduct business in the city.~~

5.01.090 Refund request.

If, pursuant to the provisions of this chapter, the applicant's request for a license is denied, either upon original application or renewal, 100 percent of the city's business license fee tendered only shall be refunded by the city to the applicant no later than 90 days following such denial; provided, that no refund shall be made where during the pendency of the original application the applicant has engaged in the business activity for which the license was intended, and in that case such amount shall be forfeited to the city.

5.01.100 License issuance and renewal—Appeal from denial.

A. The ~~city clerk~~finance director shall approve issuance of a business license to the applicant within ten working days if the information supplied to the city ~~clerk~~ is complete and the required license fee is paid; otherwise, the license application shall be denied. Upon denial of the application, ~~written~~ notice shall be sent to the applicant as set forth in MICC 5.01.120.

B. Any applicant whose application has been denied may file an appeal and request a hearing as set forth in MICC 5.01.120.

5.01.110 ~~Denial, s~~Suspension, or revocation of licenses.

A. ~~Revocation by city clerk.~~ The ~~city clerk~~finance director shall have the right to revoke or suspend any license at any time on the following grounds:

1. That the license was procured by fraud or false representation of facts;
2. That the applicant or licensee or any of ~~his servants,~~their agents or employees, while acting within the scope of their employment, has violated or failed to comply with any of the ordinances of the city; provided, that this section shall not apply to traffic violations or to violations of ordinances when said violations are corrected within a period of 30 days from the date of the violation or when said violations are deemed not significant by the finance director~~city clerk~~;

3. That the licensee or any of ~~his servants,~~their agents or employees has been convicted of either a felony or misdemeanor involving moral turpitude, or involving fraud or an attempt to defraud, while acting within the scope of their employment; or
4. Conviction of a violation of any provision of this title shall be prima facie evidence to warrant suspension or revocation of the license.

The ~~city clerk~~finance director, upon finding that one or more of the above cited conditions exist, shall suspend the business license for a period of 30 days in cases of a first violation and revoke the business license in cases involving a second violation.

B. *Return of License Upon Revocation.* Whenever any license issued under this chapter is revoked, the licensee shall immediately return the license to the finance director.

5.01.115 Notification of suspension, revocation, or denial.

When the finance director determines that there is cause for denying, suspending, or revoking any license issued pursuant to this chapter, the finance director shall notify the applicant or person holding such license of the finance director's decision by personal service or by registered or certified mail, return receipt requested. Notice mailed to the address on file shall be deemed received three (3) days after mailing. The notice shall specify the grounds for the denial, suspension, or revocation. The suspension or revocation shall become effective fourteen (14) calendar days from the date the notice is delivered or deemed received unless the person affected thereby files a written appeal within such 14-day period as required by MICC 5.01.120.

~~A. *Notice of denial, suspension or revocation.* The city clerk shall notify the applicant or licensee in writing of the denial, suspension or revocation of the business license. The notice shall contain:~~

- ~~1. A statement by the city clerk setting forth the grounds for such action;~~
- ~~2. A statement of any action required to be taken as determined by the city clerk;~~
- ~~3. Statements advising:~~
 - ~~a. That the applicant or licensee may appeal from the notice of any action taken by the city clerk to the city council, provided the appeal is made in writing, specifically sets forth the grounds for appeal and is filed with the city clerk within ten days, excluding legal holidays, from the date of service of such notice; and~~
 - ~~b. That failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter.~~
- ~~4. The notice shall be served upon the applicant or licensee either personally or by mailing a copy of such notice by certified or registered mail, postage prepaid, return receipt requested, to such applicant or licensee at his address as it appears on the application or license. Service by mail in the manner herein provided shall be effective on the date of mailing.~~

5.01.120 Appeal.

A. Any person or business aggrieved by a decision of the finance director regarding business licensing may appeal such determination to the hearing examiner pursuant to this section.

B. *Form of Appeal.* An appeal must be in writing and must contain the following:

1. The name and address of the appellant;
2. A statement identifying the decision being appealed;
3. A statement setting forth the grounds for the appeal and identifying specific errors the finance director is alleged to have made in making the decision; and
4. A statement identifying the requested relief.

C. *Time and Place to Appeal.* An appeal shall be filed with the city clerk's office no later than 14 calendar days following the date the notification of suspension, revocation, or denial is deemed received pursuant to MICC 5.01.115. Failure to follow the appeal procedures in this section shall deny the hearing examiner jurisdiction to hear the appeal.

D. *Appeal Hearing.* The city clerk shall transmit the appeal to the hearing examiner. The hearing examiner shall work with the parties to schedule a hearing date and shall notify the parties of such hearing date at least ten calendar days prior to the date set for the hearing. The hearing examiner shall conduct an appeal hearing in accordance with this chapter and procedures established by the hearing examiner.

E. *Burden of Proof.* The appellant shall have the burden of proving by a preponderance of the evidence that the determination of the finance director is erroneous.

F. *Hearing Record.* The hearing examiner shall make an electronic sound recording of each appeal hearing unless the proceedings are conducted solely in writing.

G. *Decision of the Hearing Examiner.* Following the hearing, the hearing examiner shall enter a decision on the appeal, supported by written findings and conclusions in support thereof. A copy of the findings, conclusions and decision shall be mailed to the appellant and to the finance director.

H. *During the pendency of an appeal of a notification of suspension or revocation of a license issued pursuant to this chapter, the finance director's determination shall be stayed.*

~~B. *Filing of appeal.* Within ten days, excluding legal holidays, from the date of service of the foregoing notice, the applicant may file an appeal for a hearing before the city council and shall specify an address at which the appellant may be given notice of the hearing date. The notice of appeal must be in writing and be filed with the city clerk.~~

~~Upon receipt of such notice of appeal, the applicant or licensee shall be afforded a public hearing on appeal before the city council at the second regular council meeting after the filing of notice of appeal, unless the city council orders the hearing to be held at some earlier date. A regular meeting falling on the date of filing shall be counted in computing the hearing date.~~

~~C. *Hearing—Notice to appellant.* Upon the setting of such matter for hearing, the city clerk shall notify the appellant at least ten days before the date fixed for the hearing, unless appellant waives notice in writing. The notice of such hearing shall be delivered to the address specified by the appellant pursuant to this section and in the manner specified in subsection (A)(4) of this section. The notice shall include:~~

- ~~1. A statement of the time, place and nature of the proceeding;~~
- ~~2. A short and plain statement of the matters under appeal;~~
- ~~3. Advice that the appellant may elect to appear pro se before the city council or be represented by legal counsel; and~~
- ~~4. That the appellant may elect to testify orally before the city council or furnish a written statement.~~

~~D. Hearing Procedure. The hearing on appeal shall be conducted as provided in MICC 2.30.060.~~

~~E. City council—Final decision. The city council shall, within 30 days after the conclusion of such hearing, reduce to writing its findings and conclusions. A copy of such written findings shall be furnished to the appellant at his request. The city council may affirm, modify, or reverse the denial, suspension or revocation and grant or reinstate the license, and may impose any terms or conditions upon the granting, continuance or retention of the business license which the city council may deem advisable under the circumstances. Such decision of the city council shall be final. Proceedings to review the decision of the city council in superior court must be instituted within 15 days of final action of the city council.~~

~~F. Effective date of denial, suspension or revocation. No denial, suspension or revocation of a license shall take effect until ten days have passed after service of the notice thereof on the applicant or licensee, and if an appeal is taken as herein prescribed, the denial, suspension or revocation shall be stayed pending final action by the city council.~~

~~G. Effect of denial, suspension or revocation. All licenses which are denied, suspended or revoked shall be immediately surrendered to the city clerk on the effective date of such denial, suspension or revocation. When revoked, the business license shall be canceled, and when suspended, the city clerk shall retain the same during the period of suspension. Revocation or suspension of a business license shall not relieve the licensee of the other penalties provided in this chapter.~~

~~H. Revocation—Return of license fee. Upon revocation of a business license, no portion of the license fee shall be returned to the licensee.~~

5.01.130 - Display of licensesUnlawful use~~—Transferability.~~

~~A. Licenses—To be posted—Exception. All licenses issued pursuant to this chapter authorizing the maintenance or conducting of any occupation, business, trade or entertainment at a specified location shall be posted in a conspicuous place at such location, and such license shall not be tampered with in any manner; provided, however, that when the licensee has no established place of business and goes from place to place or from house to house, then such license must be carried on the person of such licensee while actually engaged in the licensed occupation, business or trade.~~

A. License—Unlawful use.

1. It is unlawful for any person to use, or permit to be used, any license except those approved by the ~~city clerk~~ finance director in conformity with the provisions of this chapter.

2. It is unlawful for any person to make, or manufacture, any licenses except upon order of the ~~city clerk~~ finance director.

B. Licenses—Not transferable. No license issued under provisions of this chapter shall be transferable or assignable. If a license is found in the possession of any person other than the licensee or his servants, agents or employees, such license shall be forthwith confiscated by officials of the city.

5.01.140 Licenses subject to specific controls.

The issuance of a license pursuant to the terms of this chapter and all activities of any licensee granted a license hereunder shall at all times be subject to all ordinances and regulations of the city enacted in the exercise of its police power, and the prohibition or regulation of any specific activity or sale of commodity by specific ordinance shall prevail over the terms and conditions of this chapter wherever they may conflict.

5.01.150 Separate offenses.

Each day that any person, firm, corporation or association shall operate any device, vehicle or thing, or engage in any business, calling, profession, trade, occupation or activity licensed herein without having procured a valid existing license as provided for by this chapter shall constitute a separate offense and be punished as such.

5.01.160 Penalty for violations—Principal offender.

- A. Violations—Penalty. Any person violating or failing to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine in a sum not to exceed \$500.00 or by imprisonment for a period not exceeding 90 days or both such fine and imprisonment.
- B. Principal offender defined. Every person concerned in any act or omission in violation of this chapter, or who aids or abets the same, whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such violation is, and shall be, a principal under the terms of this title and shall be proceeded against and prosecuted as such.

5.01.170 Effect on pending or past prosecutions.

No prosecution now pending and no offense heretofore committed under any ordinance heretofore enacted shall be affected in any way by the passage of this chapter, but all such prosecutions shall be conducted to final judgment and all such offenses shall be prosecuted in the same manner as if this chapter had not been enacted.