

**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

- 5.01.010 - Short title.**
- 5.01.020 - Purpose.**
- 5.01.030 - Scope.**
- 5.01.035 - Definition of engaging in business.**
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- 5.01.060 - License fees—Payment.**
- 5.01.070 - License period, renewal, and display.**
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- 5.01.090 - Refund request.**
- 5.01.100 - License issuance and renewal—Appeal from denial.**
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- 5.01.130 -Unlawful use—Transferability.**
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- 5.01.150 - Separate offenses.**
- 5.01.160 - Penalty for violations—Principal offender.**
- 5.01.170 - Effect on pending or past prosecutions.**

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 to engage in business in the city without first having obtained a business license ("license") from the City.
- 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 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.

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.

- B. License 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.

5.01.070 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.

5.01.080 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.

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 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 finance director shall approve issuance of a business license to the applicant within ten working days if the information supplied to the city is complete and the required license fee is paid; otherwise, the license application shall be denied. Upon denial of the application, 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 Suspension or revocation of licenses.

- A. The 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 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;
 3. That the licensee or any of 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 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.

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.

5.01.130 - Unlawful use—Transferability.

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 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 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.