

**CITY OF STEVENSON
ORDINANCE NO. 2020-1160**

**AN ORDINANCE OF THE CITY OF STEVENSON, WA REVISING SMC 5.04 RELATING TO AND PROVIDING
FOR A LICENSE UPON CERTAIN BUSINESSES, OCCUPATIONS, PURSUITS AND PRIVILEGES, PROVIDING
PENALTIES FOR THE VIOLATION THEREOF**

WHEREAS, in 2017 the Washington State Legislature adopted EHB2005 which requires cities to partner with the state or other authorized business licensing service; and

WHEREAS, the city council of the City of Stevenson desires to revise section 5.04 to the Stevenson Municipal Code to accommodate for the use of the Business Licensing Service office within the Washington State Department of Revenue.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STEVENSON DO ORDAIN AS FOLLOWS:

Section 1-Adoption: The provisions set forth in Stevenson Municipal Code as Title 5.04, "Business License" shall be amended as outlined in Exhibit A, attached hereto any by this reference fully incorporated herein.

Key: ~~Strikethrough~~ means repealed. Underlined means new.

Section 2-Severability: That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 3-Effective Date: This Ordinance shall take effect November 26th, 2020.

PASSED by the City Council of the City of Stevenson at a regular meeting this 17th day of September, 2020.

Scott Anderson, Mayor

ATTEST:

APPROVED AS TO FORM:

Leana Kinley, City Clerk/Treasurer

Kenneth B. Woodrich, City Attorney

Exhibit "A"
Chapter 5.04 Business Licenses

Sections:

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5.04.010 – Purpose.

The purpose of this chapter is to provide a means for obtaining public information and compiling statistical information on existing and new businesses within the city, to regulate and ensure the legal conduct of business, and to assist in the effective administration of the health, fire, building, zoning and other codes of the city.

5.04.020 – Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

- A. "Business" includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class directly or indirectly.
- B. "Company" means any individual, receiver, assignee, trust, estate, firm, copartnership, 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, and includes the United States or any instrumentality thereof, provided a valid tax may be levied upon or collected therefrom under the provisions of the ordinance.
- C. "Engaging in Business"
 - 1. 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 as conducting such business.

2. 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 (1). 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.
3. 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.
 - a. 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 and generating any income therefrom, whether in cash, cash equivalent, barter, trade or other boot.
 - b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.
 - c. Soliciting sales.
 - d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
 - e. 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.
 - f. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
 - g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
 - h. Collecting current or delinquent accounts.
 - i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
 - j. 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.
 - k. 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.
 - l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
 - m. 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.
 - n. Investigating, resolving, or otherwise assisting in resolving customer complaints.
 - o. 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.

- p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
- 4. 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.
 - a. Meeting with suppliers of goods and services as a customer.
 - b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
 - c. 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.
 - d. Renting tangible or intangible property as a customer when the property is not used in the City.
 - e. 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.
 - f. Conducting advertising through the mail.
 - g. Soliciting sales by phone from a location outside the City.
- 5. 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 (4).

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.

- D. "Extractor" means every person, who from his own land or from the land of another under a right or license granted by lease, or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or commercial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber or other natural products or takes, cultivates or raises fish, shell fish or other sea or inland water foods or products.
- E. "Manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use from his own materials or ingredients any articles, substances, or commodities. When the owner of equipment or facilities furnishes or sells to the customer prior to manufacture, all or a portion of the materials that become a part or whole of the manufactured article, the Director of Finance shall prescribe equitable rules for determining tax liability.
- F. "Peddler" includes any person, whether a resident of the city of Stevenson or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, seafoods, vegetables, fruits, garden truck, farm products or provisions, offering or exposing the same for sale, or making sales and delivering articles to purchasers, or who, without

traveling from place to place, sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits, orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this chapter shall be deemed peddlers subject to the provisions of this chapter.

"Peddler" includes the words "hawker" and "huckster."

- G. "Person" includes both the singular and the plural and also means and includes any person, firm or corporation, association, club, copartnership or society, or any other organization.
- H. "Solicitor" includes any person, whether resident of the city of Stevenson or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided that such definition includes any person who, for himself, or for another person, firm or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop, or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery
- I. "Tuition Fee" shall be construed to include library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution; provided, that the term "educational institution", as herein used, shall be construed to mean only those institutions created or generally accredited as such by the State and offering to students an educational program of a general academic nature, or those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, trade schools or similar institutions.

I.J. "Business Licensing Service" or "BLS" means the office within the Washington State Department of Revenue providing business licensing services to the City of Stevenson.

5.04.030 – Business License required.

Every person who engages in business in the city must obtain a City business license for the privilege of engaging in business within the city and shall post the city business license at their physical place of business. A business must obtain a license for each physical location at which it conducts business within the city. Multiple businesses operating at the same location must have and post a separate license for each business. Businesses located d outside the city must carry a copy of the city business license while conducting business inside the city.

5.04.040 – Application and renewal.

- A. Applications for permits and a business license issued under this ordinance chapter must file with the city clerk a sworn application in writing, on a form to be furnished by the city clerk is made through the Business Licensing Service (BLS). The application 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.

Upon the filing of the application and the payment of the license fee review and approval of an application for business license, a license shall be issued by the city clerk or designee will authorize issuance of the license through BLS.

- B. The city business license expires on the date established by the Business Licensing Service (BLS) and must be renewed on or before that date in order to engage in business in the city after that date.
1. Application for Renewalsrenewal of a business license shall require payment of all license fees due is made through BLS and must include all information required to renew all licenses involved, the total fees due for all licenses, and the renewal application handling fee required by RCW 19.02.075.
 2. The license term and respective license fee amount may be prorated as necessary to synchronize the license expiration with the business license account maintained by BLS.
 3. 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.
 - 1.4. Failure to complete the license renewal the license on or before within 120 days after expiration may will result in the cancellation of the license, and may will require the filing of a new city business application for license as provided for in this chapter; payment of all appropriate fees, and reapproval by the city in order to continue conducting business in the city.

5.04.050 – Peddlers and solicitors-Application, Investigation and Issuance.

- A. Applications for peddlers and solicitors is made directly with the city and shall include the following information:
1. Name and description of the applicant;
 2. Address (legal and local);
 3. A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;
 4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
 5. The length of time for which the right to do business is desired;
 6. If a vehicle is to be used, a description of the same, together with license number or other means of identification;
 7. A photograph of the applicant, taken within sixty days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
 8. The fingerprints of the applicant and the names of at least two reliable property owners of the county of Skamania, who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the

- good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;
9. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
 10. At the time of filing the application, a fee in such amount as shall be determined from time to time by resolution of the city council shall be paid to the city clerk-treasurer to cover the cost of investigation.
- B. Upon receipt of such application, the original shall be referred to the Skamania County sheriff, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good; provided, that such investigation shall be completed within thirty days of receipt of such application by the county sheriff.
 - C. If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the county sheriff shall endorse on such application his disapproval and his reasons for the same, and return the application to the city clerk-treasurer, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
 - D. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the county sheriff shall endorse on the application his approval, and the city clerk-treasurer shall, upon payment to the city of the prescribed license fee, deliver to the applicant his permit and issue a license.

5.04.060 – License term or expiration.

Each city business license issued [under this chapter](#) shall be valid ~~until June 30th and all renewals thereafter shall be for a period of one year commencing July 1st through June 30th of the following year for one year unless otherwise prorated as provided for in this chapter, and expires on the date established by the Business Licensing Service.~~

5.04.070 – Fee.

The fee for the City business license required by this chapter shall be established by resolution of the city council. The fee imposed by this chapter, and all penalties assessed thereon by the city, shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies. Any judgment entered in favor of the city shall include an award to the city of all court and collection costs including attorneys' fees.

5.04.080 – Prohibited refunds.

No surrender, revocation or other cancellation, irrespective of the cause, of any business license issued, shall entitle the holder thereof to any refund in whole or in part of any business license fee paid. In addition, no refunds shall be paid if the licensee shall fail to operate the business for the full period of the business license.

5.04.090 – License-nontransferable.

~~No~~The business license issued ~~within the city shall be~~under this chapter is not transferable. Only the persons to whom the business license is issued ~~shall be~~eligible to engage in business as permitted under that license. No licensee ~~shall~~may allow another person to operate a business under, or display the business license issued to said licensee. In the event of the sale or other transfer of ownership of the business, the acquiring owner must obtain their own license for the business, as provided for under this chapter, prior to engaging in business in the city with the acquired business.

5.04.100 – Exception – Applicability of provisions.

This chapter shall not be applicable to:

- A. Any fraternal, charitable or social entity, or nonprofit organization whose sole purpose is charitable and nonprofit and not organized or operated for the benefit of private interest, other than those operating pursuant to Chapter 69.51A RCW.
- B. Any organization or assemblage whose sole purpose is religious and is not organized or operated for the benefit of private interests;
- ~~B-C.~~Organizations, other than those identified in subsections A or B of this section, claiming a nonprofit status must obtain a business license as provided for in this chapter; provided that if such organization submits proof of federal tax exemption under a provision of 26 USC § 501(c) they are exempt from payment of the city license fee therefor. Any other organization without such proof of tax exemption must obtain a license and pay the fee therefor.
- ~~C-D.~~ Any municipality or political subdivision of the United States or the State of Washington;
- ~~D-E.~~ Any person who is exempt from paying the license fee by the laws of the United States of America or by the State of Washington.
- ~~E-F.~~ Artisans who produce their own art or craftwork, or sellers of prepared foods participating in a special event permit in which the sponsor has a city business license.
- ~~F-G.~~ Farmers, agriculture, or gardeners selling their own farm products raised and grown exclusively upon lands owned or occupied by them. This exclusion is not applicable to the sale of value-added products or prepared foods.
- ~~G-H.~~ A seller located outside the city merely delivering goods into the city by means of a common carrier provided that it engages in no other business activities in the city.
- ~~H-I.~~ Minors engaged in babysitting, newspaper delivery, lemonade stands, lawn mowing and similar activities.
- ~~I-J.~~ Individuals who own or rent/lease property or otherwise use real property for their personal residence.
- ~~J-K.~~ Individuals-Persons who own real property that is rented/leased to others for residential use or lodging for periods of ~~more than~~ thirty (30) or more consecutive days. Provided the individual rents/leases no more than two such properties within the city. Persons/entities that own and offer for rent or lease three or more separate real properties within the city that is leased/rented for residential use must obtain a business license. Persons renting a property for fewer than 30 consecutive days at a time must hold a license issued under Chapter 5.20 SMC.
- ~~K-L.~~ 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 submit a business license application to the city clerk or designee, but shall not be required to pay a fee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

5.04.110 – Revocation or suspension of license.

The city clerk may, at any time, suspend or revoke any license issued under the provisions of this chapter whenever the licensee, or any officer, employee or partner thereof:

- A. Has violated any federal, state or city statute, law, regulation or ordinance upon the business premises stated in the license or in connection with the business stated in the license, whether or not the licensee, or officer or partner thereof, has been convicted in any court of competent jurisdiction of such violation;
- B. Is or has conducted, engaged in or operated the business stated in the license upon premises which do not conform to the ordinances of the city of Stevenson;
- C. Has maintained or permitted the business stated in the license to be conducted, engaged in or operated in such a manner as to constitute a public nuisance;
- D. Has made any material false statement or representation in connection with obtaining the license.

5.04.120 – Appeal.

- A. Whenever the city clerk determines that there is cause for suspending, denying or revoking any license issued pursuant to this chapter, the clerk shall notify the person holding the license by registered or certified mail, return receipt requested, of the determination. Notice mailed to the address on the license shall be deemed received three days after mailing. The notice shall specify the grounds for suspension, denial or revocation.
- B. The licensee may appeal the decision of the city clerk to deny or revoke a business license by filing a written notice of appeal to the city council within ten days of the clerk's decision.
- C. Upon timely receipt of the notice of appeal, the city clerk shall set a date for hearing the appeal. The city clerk shall mail notice of the date of the hearing to the licensee at least twenty days prior to the hearing date.
- D. The Hearing shall be De Novo. The city council may affirm, reverse or modify the city clerk's decision.
- E. The Decision of the City Council shall be Final. Any person desiring to appeal must file an appropriate action in Skamania County Superior Court within fourteen days of the city council's decision.
- F. Following revocation, no business license shall be issued for a period of twelve months to the person or business entity whose license was revoked, or to any business entity owned or controlled by such person or entity.

5.04.130 – Penalties.

| Any person violating or failing to comply with any of the provisions of this chapter ~~shall~~are guilty of a class 1 civil infraction penalty as set forth in RCW 7.80.120 as adopted by reference in SMC 1.18.050(A)(1). Continuing violations after notice and an opportunity to abate the violation may be assessed a daily Class 1 civil infraction.