

**CITY OF SUMAS  
ORDINANCE NO. 1788**

**AN ORDINANCE OF THE CITY OF SUMAS, WASHINGTON,  
AMENDING CHAPTER 4.04 OF THE SUMAS MUNICIPAL CODE  
REGARDING BUSINESS LICENSES**

**WHEREAS**, the State legislator passed EHB 2005 (Engrossed House Bill 2005) which amended Chapter 35.90 of the Revised Code of Washington (“RCW”) relating to business licensing; and

**WHEREAS**, RCW 35.90.080 required the City to adopt mandatory provisions of a model ordinance composed to regulate general business licenses; and

**WHEREAS**, the City adopted Ordinance Number 1737 and Ordinance Number 1739 to meet these requirements; and

**WHEREAS**, the Washington state Department of Revenue through its Business Licensing Service” (“BLS”) office will be providing business license services to the City; and

**WHEREAS**, the BLS office has requested certain additions and revisions to the City’s municipal code regarding business licenses in order to provide those services; **NOW, THEREFORE**,

**THE CITY COUNCIL OF THE CITY OF SUMAS, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** Section 4.04.020 of the Sumas Municipal Code is amended to read in its entirety as follows:

**4.04.020 Definitions.**

In construing the provisions of this chapter, except when otherwise declared or clearly apparent from the context, the following definition shall be applied:

**“Business”**

“Business” means and includes all professions, trades, occupations, shops, stores of any kind, and all and every kind of calling carried on for profit or livelihood, benefit or advantage to the person, or to another person or class directly or indirectly, whether part time or full time.

**“Person”**

The term “person” means and includes one or more persons of either sex; corporations, including not-for-profit corporations and municipal corporations; partnerships, including limited partnerships; associations, joint ventures or any other entity capable of having an action at law brought against such entity.

**“Business Licensing Service” and “BLS”**

“Business Licensing Service” and “BLS” mean the office within the Washington state Department of Revenue providing business license services to the City.

**Section 2.** Section 4.04.025 is added to the Sumas Municipal Code to read in its entirety as follows:

**4.04.025 “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, anyone 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.

(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).

(6) 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.

**Section 3.** Section 4.04.040 of the Sumas Municipal Code is amended to read in its entirety as follows:

**4.04.040 Exemptions.**

To the extent set forth in this section, the following persons and/or businesses shall be exempt from either the registration and/or license requirements of this chapter:

(1) **Municipal Corporations.** Municipal corporations and other governmental agencies shall be exempt from the license requirements of this chapter; provided, however, that each municipal corporation or other governmental agency shall, for informational purposes only, and without fee due, file directly with the city an informational form provided by the city for this purpose.

(2) **Religious Organizations.** The non-business activities of religious organizations are exempt from the provisions of this chapter; such organizations may nevertheless file directly with the city, for informational purposes only, and without fee due, an informational form provided by the city for this purpose. Any religious organization which carries on any business activity for which it may be required by the laws of the United States to file a federal income tax return shall, to that extent only, be subject to the registration and license requirements of this chapter.

(3) **Nonprofit Organizations.** Any governmental or legally chartered nonprofit organization is exempt from the registration and license requirements of this chapter.

(4) **Certain Sales.** Rummage sales, bake sales and sale of secondhand merchandise and/or services conducted by nonprofit, charitable, religious or civic organizations are exempt from the license and registration requirements of this chapter.

(5) **Garage Sales.** Occasional or infrequent sale by individuals of used personal property owned by them and not acquired for resale, conducted from residences, and designated as "garage sales," "yard sales," "moving sales" or similar titles, are exempt from the license and registration requirements of this chapter.

**Section 4** Section 4.04.050 of the Sumas Municipal Code is amended to read in its entirety as follows:

**4.04.050 Business license application procedure.**

(a) Application for a business license is made to the Business Licensing Service (BLS) and must include all information required for all licenses requested, the total fees due for all licenses, and the license application handling fee required by RCW 19.02.075. The BLS will provide the application information to the Sumas city clerk-treasurer.

(b) The city clerk-treasurer, upon receipt of the information from an application will cause an investigation and review of the application to be made by the proper city officials, and will determine whether to approve issuance of the license within fifteen days of the date of receipt of the application information.

(d) If an application is refused, the reason for refusal will be set forth in writing and mailed to the applicant at the mailing address provided in the application. The applicant may appeal such refusal to the city council by filing a notice of appeal within fourteen days of mailing by the city clerk-treasurer of the notice of refusal. Upon receipt of a notice of appeal, the city council will provide for a hearing thereon in the same manner as provided in Section 4.04.090 for hearing on revocation or suspension of license.

**Section 5.** Section 4.04.055 is added to the Sumas Municipal Code to read in its entirety as follows:

**4.04.055 Business license renewal procedure.**

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

(a) Application for renewal of the business license is made to the BLS, and must include all information required by all licenses being renewed, the total fees due for all licenses, and the renewal application handling fee required by RCW 19.02.075.

(b) The term of license and respective fee amount may be prorated as necessary to synchronize the license expiration date with the expiration of the business account maintained by the BLS.

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

(d) Failure to complete the license renewal within 120 days after the license expiration will result in the cancellation of the business license and will require submitting a new application for license as provided for in this chapter to continue to engage in business in the city. The city is authorized to require payment of all past due amounts prior to approval of the new license.

**Section 6.** Section 4.04.060 of the Sumas Municipal Code is amended to read in its entirety as follows:

**4.04.060 City license fee.**

There is a \$25.00 city fee due for a city business license as is required under this chapter. This fee shall be waived if requested by a non-profit entity upon confirmation of non-profit status satisfactory to the City Clerk.

**Section 7.** Section 4.04.100 of the Sumas Municipal Code is amended to read in its entirety as follows:

**4.04.100 Permanent location required.**

(a) No business license shall be issued to a resident business unless the business location consists of a valid permanent structure or improvement attached to real estate. A “valid permanent structure” is a building or structure permanently connected to all basic utilities (water, sewer and electricity), meeting all of the city building code requirements and not otherwise in violation of any Sumas city ordinance or regulations. A mobile home or similar-type portable structure shall not be included within the definition of a valid permanent structure unless it is the residential dwelling unit in which a permitted home occupation, as defined in SMC 20.80.030, is located.

(b) A business may be allowed to operate in a temporary structure for a limited period of time at the discretion of the city council; provided, however, that before a business license shall be issued to a business operating out of a temporary structure, formal approval of the city council shall be first had and received, which approval shall set forth the time limits and conditions upon which such business may operate.

**Section 8.** Section 4.04.0125 is added to the Sumas Municipal Code to read in its entirety as follows:

**4.04.125 Additional Licenses.**

The general business license and fee required by this chapter is separate from and in addition to any regulatory license otherwise required by the City for certain types of businesses that the City has determined warrant additional regulation including, but not limited to, licenses required under Chapter 4.05 SMC (Pawnbrokers), Chapter 4.06 SMC (Recreational Marijuana), Chapter 4.07 SMC (Commercial Solicitors and Itinerant Merchants), Chapter 4.16 SMC (Dancehalls and Teenage Dances), Chapter 4.28 SMC (Amusement Devices), Chapter 4.40 SMC (Cabarets), Chapter 4.78 SMC (Utility Tax), Chapter 4.80 SMC (Adult Entertainment Businesses).

**Section 8. Severability Clause.** Should any provision of this Ordinance or its application to any person or circumstances be held invalid, the remainder of the Ordinance or its application to other persons or circumstances is not affected.

**Section 9. Effective Date.** This Ordinance shall take effect five (5) days after the date of publication.

**PASSED** by the City Council and approved by the Mayor of the City of Sumas, Washington this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF SUMAS, WASHINGTON**

\_\_\_\_\_  
Kyle Christensen, Mayor

Attested/Authenticated:

Approved as to form:

\_\_\_\_\_  
Michelle Quinn, City Clerk

\_\_\_\_\_  
James J. Wright, City Attorney