



City of Sumas Request for Council Action

Meeting Date: August 25, 2025

Subject:

Ordinance No. 1823 - Amending Section 4.04.030 & 4.04.060 of the SMC Regarding Business Licenses

Department: Administration

Prepared By: Mollie Bost

Agenda Location:

☐ Public Hearing ☐ Old Business ☒ New Business ☐ Staff Reports

Brief Summary:

State Legislature amended Chapter 35.90 of the RCW, which requires the City to adopt a one-time increase to a higher threshold to \$4,000 for out-of-city businesses from the current \$2,000 threshold, effective January 1, 2026.

The amended chapter also requires that every 4 years the threshold would have an automatic periodic increase based on the cumulative inflation, as calculated using the Consumer Price Index-U (CPI-U) Western for June of each year. Negative rates are calculated as zero, and capped at 5% each year.

Ordinance 1823 addresses the changes required by RCW 35.90, by amending Section 4.04.030 "Business license required" in the Sumas Municipal Code (SMC). The ordinance also amends section 4.04.060 "City license fee" of the SMC, by removing the business license fee from Chapter 4.04, and adding it to Chapter 3.30 "Fee schedule", which will be updated at a later date.

Legal Review: ☒ Reviewed ☐ Not Reviewed ☐ Review Not Required

Staff Recommendation:

Staff is recommending to adopt Ordinance No. 1823 as required by recent amendments to RCW 35.90.

Senior Staff Review:

- ☒ Mayor
- ☒ Finance Director
- ☒ City Clerk
- ☐ Public Works Director

Budget Implications:

- ☐ Current Budget
- ☐ New Budget Request
- ☒ Non-Budgetary

ORDINANCE NO. 1823

AN ORDINANCE OF THE CITY OF SUMAS, WASHINGTON, AMENDING SECTION 4.04.030 AND SECTION 4.04.060 OF THE SUMAS MUNICIPAL CODE REGARDING BUSINESS LICENSES

WHEREAS, pursuant to RCW 35.90.080, the City previously adopted mandatory provisions of a model ordinance composed to regulate general business licenses; and

WHEREAS, the model ordinance has now been updated with the changes to be effective January 1, 2026; and

WHEREAS, the changes to the model ordinance resulting from the update increase the licensing exemption threshold to \$4,000 for out-of-city businesses from the current \$2,000 threshold effective January 1, 2026; and

WHEREAS, the changes also provide that every four years thereafter the threshold would have an automatic periodic increase based on cumulative inflation, as calculated using the Consumer Price Index-U (CPI-U) Western for June of each year, where negative rates are recognized as zero, and capped at 5% per year; and

WHEREAS, pursuant to RCW 35.90.080, the changes to the model ordinance are “mandatory provisions” which the City is required to adopt; **NOW, THEREFORE**,

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

Section 1. Section 4.04.030 of the Sumas Municipal Code is amended to read in its entirety as follows:

4.04.030 Business license required.

(a) It is unlawful for any person engaging in business in the city to do so without having first registered with and obtained a business license from the city. If more than one business is conducted on a single premises, a separate registration and license shall be required for each separate business conducted, operated, engaged in or practiced. If a business is conducted from more than one premises in the city, a separate registration and license shall be required for each premises within the city

(b) Notwithstanding subsection (a) of this section, the following persons and businesses shall be exempt from the registration, license and/or license fee requirements as outlined in this chapter: 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 exemption does not apply to regulatory license requirements or activities that require a specialized permit.

Beginning January 1, 2026, the threshold amount is four thousand dollars. The 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 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.

Section 2. 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 shall be a city fee for a business license required under this chapter. The City’s business license fees are set forth in Chapter 3.30, Fee Schedule, of the Sumas Municipal Code, as adopted by the City Council.

Section 3 – Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

Section 4 – Effective Date. This Ordinance shall take effect January 1, 2026.

PASSED by the City Council and approved by the Mayor of the City of Sumas, Washington this ____ day of _____, ____.

CITY OF SUMAS, WASHINGTON

BRUCE BOSCH, Mayor

Attested/Authenticated:

MICHELLE QUINN, City Clerk

Approved as to Form:

JAMES J. WRIGHT, City Attorney

Chapter 4.04

BUSINESS LICENSES

Sections:

- 4.04.010 Purpose.
- 4.04.020 Definitions.
- 4.04.025 Engaging in business.
- 4.04.030 Business license required.
- 4.04.040 Exemptions.
- 4.04.050 Business license application procedure.
- 4.04.055 Business license renewal procedure.
- 4.04.060 City license fee.
- 4.04.070 License not construed to permit prohibitive uses or activities.
- 4.04.080 Refusal of application and issuance of a license.
- 4.04.090 Revocation or suspension.
- 4.04.100 Permanent location required.
- 4.04.110 Uninvited solicitations.
- 4.04.120 Transfer or sale of business—New license required.
- 4.04.125 Additional licenses.
- 4.04.130 Additional remedies.
- 4.04.140 Violation—Penalty.

4.04.010 Purpose.

The provisions of this chapter shall be deemed an exercise of the police power of the city to preserve the public peace, health, safety and welfare, by regulating all business activities within the city. (Ord. 1168 § 1, 1995)

4.04.020 Definitions.

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

“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.

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

“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. (Ord. 1788 § 1, 2021; Ord. 1168 § 2, 1995)

4.04.025 Engaging in business.

(a) The term “engaging in business” means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public 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 minimis 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, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
- (12) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
- (13) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the city, acting on its behalf, or for customers or potential customers.
- (14) Investigating, resolving, or otherwise assisting in resolving customer complaints.
- (15) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of 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 directors 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. (Ord. 1788 § 2, 2021)

4.04.030 Business license required.

- (a) It is unlawful for any person engaging in business in the city to do so without having first registered with and obtained a business license from the city. If more than one business is conducted on a single premises, a separate registration and license shall be required for each separate business conducted, operated, engaged in or practiced. If a business is conducted from more than one premises in the city, a separate registration and license shall be required for each premises within the city.
- (b) Notwithstanding subsection (a) of this section, the following persons and businesses shall be exempt from the registration, license and/or license fee requirements as outlined in this chapter: 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 two thousand dollars 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 exemption does not apply to regulatory license requirements or activities that require a specialized permit.

Beginning January 1, 2026, the threshold amount is four thousand dollars. The 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 ending on June 30 of each 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) will be used in computing the annual basis.

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:

- (a) 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.

(b) Religious Organizations. The nonbusiness 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.

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

(d) 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.

(e) 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. (Ord. 1788 § 3, 2021; Ord. 1168 § 4, 1995)

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.

(c) 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. (Ord. 1788 § 4, 2021; Ord. 1168 § 5, 1995)

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 one hundred twenty 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. (Ord. 1788 § 5, 2021)

4.04.060 City license fee.

~~There is a twenty-five dollar city fee due for a city business license as is required under this chapter. This fee shall be waived if requested by a nonprofit entity upon confirmation of nonprofit status satisfactory to the city clerk. The City's business license fees are set forth in Chapter 3.30, Fee Schedule, of the Sumas Municipal Code, as adopted by the City Council.~~ (Ord. 1788 § 6, 2021; Ord. 1168 § 6, 1995)

4.04.070 License not construed to permit prohibitive uses or activities.

Notwithstanding any provisions hereof to the contrary, a license hereunder shall not be issued to any person who houses or occupies or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of any ordinance of the city or of the statutes of the state of Washington.

The granting of a business license shall in no way be construed as permission or acquiescence in a prohibited activity or other violation of the law. (Ord. 1168 § 7, 1995)

4.04.080 Refusal of application and issuance of a license.

(a) A license shall not be issued to any person and/or business who or which is currently in violation of any statute, regulation or ordinance of the United States, the state of Washington, Whatcom County or the city.

(b) A license shall not be issued to any person and/or business who or which is delinquent in, or fails to pay when due, any taxes, fees or assessments to the city pursuant to any ordinance, statute or regulation.

(c) The city clerk-treasurer may deny any license if there is sufficient facts and evidence that the issuance of the license would be contrary to the health, safety or welfare of the citizens of the city or contrary to the law. (Ord. 1168 § 8, 1995)

4.04.090 Revocation or suspension.

(a) The city council may, at any time, suspend or revoke any license issued hereunder as follows:

(1) Whenever the licensee or an officer or partner thereof has been convicted in any court of competent jurisdiction of violating any criminal statute of the United States or the state of Washington or of any ordinance of the city upon the business premises stated in the license or in connection with the business stated in the license; or

(2) Whenever the place of business does not conform to the ordinances of the city; or

(3) Whenever a person and/or business is delinquent in, or fails to pay when due, any taxes, fees or assessments to the city pursuant to any ordinance, statute or regulation.

(b) Prior to any revocation or suspension under this section, a hearing thereon shall be had. The licensee shall be notified in writing by sending notice to the mailing address stated in the license. Said notice shall state the intention of the city council to revoke or suspend said license, the reason for said suspension or revocation, and the date and time of the meeting of the city council at which such will be considered, and the right of the licensee to appear at said meeting and be heard in opposition of such revocation or suspension. Such notice shall be given by certified mail to the licensee at least fourteen days prior to the date of said hearing. (Ord. 1168 § 9, 1995)

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 Section 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. (Ord. 1788 § 7, 2021; Ord. 1168 § 10, 1995)

4.04.110 Uninvited solicitations.

Uninvited solicitations by a business, outside the business premises, shall be regulated as set forth in Chapter 4.07, or other applicable sections, of the Sumas Municipal Code. (Ord. 1655 § 1, 2015; Ord. 1168 § 11, 1995)

4.04.120 Transfer or sale of business—New license required.

Upon the sale or transfer of any business licensed by this chapter, the license issued to the prior owner or transferor shall automatically expire on the date of such sale or transfer and the new owner intending to continue such business in the city shall apply for a new business license pursuant to the procedures established by this chapter. (Ord. 1168 § 12, 1995)

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 (Pawnbrokers), Chapter 4.06 (Recreational Marijuana), Chapter 4.07 (Commercial Solicitors and Itinerant Merchants), Chapter 4.16 (Dancehalls and Teenage Dances), Chapter 4.28 (Amusement Devices), Chapter 4.40 (Cabarets), Chapter 4.78 (Utility Tax), and Chapter 4.80 (Adult Entertainment Businesses). (Ord. 1788 § 8, 2021)

4.04.130 Additional remedies.

In addition to the penalties provided in this chapter, the city may seek an injunction prohibiting a person from engaging in any business or other conduct in violation of this chapter. In any action or suit brought under this section, the city, if it prevails, shall recover a reasonable attorney fee to be set by the court, in addition to its costs and disbursements. (Ord. 1168 § 14, 1995)

4.04.140 Violation—Penalty.

Any person, as defined in this chapter, and the officers, directors, managing agents or partners of any corporation, firm, partnership or other organization or business violating or failing to comply with any provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars or imprisonment in jail not to exceed ninety days or by both such fine and imprisonment. In addition, their license shall be revoked. Each day of violation shall constitute a separate offense. (Ord. 1168 § 13, 1995)