

**CITY OF SNOHOMISH  
Snohomish, Washington**

**ORDINANCE 2373**

**AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON,  
AMENDING CHAPTER 5.02 OF THE SNOHOMISH MUNICIPAL CODE  
CONCERNING BUSINESS LICENSES.**

**WHEREAS**, the City of Snohomish requires business owners to obtain a business license to conduct business within the City; and

**WHEREAS**, the City of Snohomish has partnered with the Washington State Business Licensing Services as of March 14, 2019 for the purposes of receiving and processing business license applications;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH,  
WASHINGTON DO HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** SMC Chapter 5.02 entitled “Business Licenses” is amended to read as follows:

**5.02.010 Definitions.**

Except as otherwise expressly declared or clearly apparent from the context in which used, the following definitions shall be applied in construing the provisions of this chapter:

A. “Person” means one or more natural persons of either sex, corporations, partnerships, associations, or other entities capable of having an action at law brought against such entity, but shall not include employees of persons licensed pursuant to this chapter.

B. “Business”, notwithstanding the definition of “engaging in business” found within this chapter, the term “business” means all services, activities, occupations, pursuits, or professions located and/or performed within the City with the object of pecuniary gain, benefit, or advantage to the person, or to another person or class, directly or indirectly, whether part time or full time. This definition includes, without limitation, home occupations, peddlers, hawkers, and the rental of commercial and residential real property. It also includes the activities of businesses that are located outside the City where sales or services are performed by the physical presence of business representatives inside the City. Businesses which are exempt from this chapter are specified in section 5.02.030. See also “engaging in business” in subsection L. of this section and SMC 5.02.015.

C. “Employee” means an individual who is paid a salary, commission, or hourly wage for service rendered on behalf of or for the benefit of a business. For the purpose of determining the business license fee due, “employee” means all individuals involved in the business, whether on a wage or salary paid basis or not, whether considered full time or part time, and includes owners of the business.

D. “Full Time Employee” means any employee who engages in business within the City for 30 or more hours per week with the expectation of such employment for 25 or more weeks per year.

E. "Part Time Employee" means any employee who engages in business within the City for fewer than 30 hours per week or with the expectation of employment for fewer than 25 weeks per year.

F. "Full Time Self Employed" means any full time employee or employees who owns the business in which he and/or she is employed and the business has no other employees.

G. "Part Time Self Employed" means any part time employee or employees who owns the business in which he and/or she is employed and the business has no other employees.

H. "Consignor" means a person whose only business in the City is the consignment of goods for sale, i.e. the consignor is paid only when and if the consigned goods are sold and the goods remain the property of the consignor.

I. "Start-Up Business" means a person who is engaging in a business for the first time. Said status shall commence on the date the start-up business first transacts business and shall continue for the remainder of that calendar year.

J. "Second Year Business" means the calendar year following the calendar year during which a business was a start-up business.

K. Rental of four (4) or more rooms or apartments for residential use shall be considered a business activity.

L. "Engaging in business: is defined as provided in 5.02.015.

#### **5.02.015 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 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 (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.

(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.

#### **5.02.020 Business License Required.**

It is unlawful for any person, firm, or corporation to engage in any business, occupation or pursuit, as defined in SMC 5.02.010, in the city without first having obtained a business license therefor as provided in this chapter. The business license provided for in this chapter shall be posted in a conspicuous location at the place of the business. Such business license is not transferable.

#### **5.02.030 Exempt Businesses.**

1. The following businesses shall be exempt from the licensing provisions of this chapter:
  - A. Nonprofit activities carried on by religious, charitable, benevolent, fraternal, or social organizations.
  - B. Public utility companies.
  - C. Any instrumentality of the United States, State of Washington, or political subdivision thereof with respect to the exercise of governmental functions.
  - D. Garage sales conducted on residential premises in compliance with the City zoning code.
  - E. Businesses which are specifically licensed pursuant to other chapters in the Snohomish Municipal Code.

F. Businesses where the sale or contract for goods occurred on business premises outside of the City, and the only event occurring within the City was the mere delivery of the goods to the customer or client.

G. Consignors when sales taxes are collected and remitted to the State by the consignee.

H. Persons or organizations that provide three (3) or less rooms or apartments for residential use.

I. For purposes of the license required by 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 submit a business license application as provided for in this chapter, but be exempt from the city license fee. The threshold and fee exemption does not apply to regulatory license requirements or activities that require a specialized permit.

**5.02.040 Application Procedure.**

A. Application for a business license shall be made by filing an application through the State of Washington Business Licensing Service, in coordination with the City's Finance Department, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter. Persons applying for a license must pay a fee as set by resolution of the City Council (Resolution 1368, 2018).

B. A business license must be approved by the City before a business commences operation within the City. If business is transacted by one person at two or more separate locations within the City, a separate application must be filed for each business location and a separate license shall be obtained and displayed in each location.

C. The Finance Department shall, when appropriate, refer applications to the planning department, the police department, or other governmental agencies for their review.

D. If more than one business is conducted or operated on a single premises, a separate license shall be required for each business. Each business owner must make a separate application for license.

E. The filing of an application for a license or the renewal thereof, or the payment of any application or renewal fee, shall not authorize a person to engage in or conduct a business until such license has been granted or renewed.

F. A business license is not transferable. No licensee shall allow another person to operate a business under or display the license issued to their business, nor shall another person operate under or display the license issued to another business. A person who acquires an existing business must make application for a city business license before commencing business within the city with that business. A licensee must report a change of location of the business to the Washington State Business Licensing Service, in coordination with the City's Finance Department. A change of the location of a business requires approval by the City before business may commence at the new location, and may require submitting a new master application and payment of fees.

G. The City's decision to issue or the issuance of a business license shall not be construed as permission or acquiescence to conduct a prohibited activity or other

violation; and the City shall not be held liable for the actions of any licensed business by virtue of having issued a license to conduct business.

H. Every applicant or licensee shall permit reasonable inspections of the business premises by governmental authorities for the purpose of enforcing the provisions of this chapter.

I. License renewals shall be processed by the State of Washington State Business Licensing Service in coordination with the City. Renewal of the City license requires payment of fees including handling fees. (Resolution 1368, 2018).

J. If an application is denied, the reason for denial shall be stated in writing. The applicant shall have a period of ten (10) days after a license denial to appeal the same to the City Mayor. Upon receiving such an appeal, the City Mayor shall hold a public hearing to consider whether or not the license should be issued. The applicant shall be given not less than seven (7) days advance notice of the hearing. The decision of the City Mayor shall be final, subject only to an appeal filed with the Snohomish County Superior Court within fourteen (14) days following the date of such decision. (Ord. 2027, 2003)

**5.02.050 Term of License.**

Each city license issued shall have an expiration date as determined by the State of Washington Business Licensing Service in coordination with the City.

**5.02.060 Procedure for Renewing Licenses.**

All business licenses issued pursuant to the provisions of this chapter shall be renewed by following the same procedure as required for the original applications.

**5.02.070 Fees – Transfer Fee – Late Payment Fee.**

- A. The fee for each business license required by this chapter, and each renewal thereof, shall be established by Resolution.
- B. A late payment fee shall be established by Resolution.

**5.02.080 Ineligible Activities.**

Notwithstanding any other provisions of this chapter, a license hereunder may not be issued to or held by any person who uses 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 the statutes of the State of Washington or any other applicable law or regulation. The granting of a business license shall not authorize any person to engage in any activity prohibited by a federal, state, or local law or regulation.

**5.02.090 Standards of Conduct.**

Every licensee under this chapter shall:

- A. Permit reasonable inspections of the business premises by governmental authorities for the purpose of enforcing the provisions of this chapter.
- B. Comply with all federal, state and City statutes, laws, regulations, and ordinances relating to the business premises and the conduct of the business thereon.
- C. Refrain from unfair or deceptive acts or practices, or consumer fraud, in the conduct of the business, and avoid maintaining a public nuisance on the business premises.

D. Refrain from operating the business after expiration of a license or during the period that the license may be suspended or revoked.

**5.02.100 New Location.**

A licensee shall have the right to change the location of the licensed business. Prior to such a change, the licensee shall notify the State of Washington State Business Licensing Service.

**5.02.110 Revocation or Suspension of License – Grounds.**

The Mayor or designee may, at any time, suspend or revoke any license issued under the provisions of this chapter whenever the licensee, or any manager, officer, director, agent, or employee of the licensee has caused, permitted, or knowingly done any of the following:

A. Violated any federal, state, or City statute, law, regulation, or ordinance upon the business premises, or in connection with the business operation, whether or not any party has been convicted in any court of competent jurisdiction of such violation; or

B. Conducted, engaged in, or operated the business on the premises in the City which does not conform to the ordinance of the City; or

C. Engaged in unfair or deceptive acts or practices in conduct of the business, or operated the business in such a manner as to constitute a public nuisance; or

D. Made any false statement or representation, or failed to disclose any material information to the City in connection with obtaining the business license or any renewal thereof; or

E. Failed to pay within 90 days of the date due any tax imposed by the City and payable to the City by the licensee. (Ord. 1807, 1996; Ord. 2027, 2003)

**5.02.120 Hearing Required.**

Whenever the Mayor or designee determines that there may be cause for suspending or revoking any license issued pursuant to this chapter, the Mayor or designee shall notify the person holding said license by registered or certified mail, return receipt requested, of his determination. Notice mailed to the address on the license shall be deemed received three (3) days after mailing. The notice shall specify the grounds for suspension or revocation. The notice shall also specify that a hearing shall be conducted by the Hearing Examiner at a time and date denominated in the notice to determine whether or not the license should be suspended or revoked. The notice shall be mailed to the licensee at least seven (7) days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision of the Hearing Examiner shall be final, subject only to an appeal filed with the Snohomish County Superior Court within fourteen (14) days following the date of such decision. (Ord. 2027, 2003)

**5.02.130 Sale or Transfer of Business – New License Required.**

Upon the sale or transfer of any business which is licensed pursuant to this chapter, the license issued to the prior owner shall automatically expire on the date of such sale or transfer and the new owner shall apply for and obtain a new business license prior to engaging in, conducting, or operating the business.

**5.02.140 Penalties for Violation.**

Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein. (Ord. 1927, 1999; Ord. 2155, 2008)

**Section 2.** Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional in a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

**Section 3.** Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force and effect five days after its publication in the City's official newspaper.

ADOPTED by the City Council and APPROVED by the Mayor this 16th day of April, 2019.

CITY OF SNOHOMISH

By John T. Kartak  
John T. Kartak, Mayor

ATTEST:

By Pat Adams  
Pat Adams, City Clerk

APPROVED AS TO FORM:

By Grant K. Weed  
Grant K. Weed, City Attorney