

ORDINANCE 3028

AN ORDINANCE AMENDING ANACORTES MUNICIPAL CODE CHAPTER 5.04
DEALING WITH BUSINESS LICENSE REQUIREMENTS AND FEES

WHEREAS, The City of Anacortes uses Washington State’s (the State) Business Licensing Services (BLS) for the processing and maintenance of its business licensing needs, and

WHEREAS, The State has ordered that all cities are required to develop a model ordinance for business licensing by July 1, 2018. The ordinance includes a mandatory definition of “engaging in business” and a minimum threshold (or occasional sale) exemption to establish when out-of-town or transient businesses are required to be licensed. All business license cities must adopt it by the end of the year (RCW 35.90.080), and

WHEREAS, The edits to the current code are outlined in red in the text included in this ordinance, and come directly from example language provided by the State.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Anacortes, Washington, as follows:

Section 1. AMC Chapter 5.04 is hereby repealed and replaced with the following:

Chapter 5.04
BUSINESS LICENSE REQUIREMENTS AND FEES

5.04.010 Exercise of revenue license power.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for regulation and revenue.

5.04.020 Definitions.

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

“Business” means and includes all activities engaged in with the object of gain, benefit, or advantage to the licensee or to another person or class, directly or indirectly.

"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.
 - 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).

“Person” means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

5.04.030 License—Required.

It is unlawful for any person to engage in or carry on business, trade, profession or calling, for which the transaction or carrying on of which a license is required, without first taking out or procuring the license required for such business, trade, profession, or calling, as set forth in this chapter.

Threshold Exemption: To the extent set forth in this section, the following persons and businesses shall be exempt from the registration, license and/or license fee requirements as outlined in this chapter: (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 exemption does not apply to regulatory license requirements or activities that require a specialized permit.

5.04.035 License fee exemption.

Nonprofit businesses must comply with the requirements of this chapter. Nonprofit organizations properly registered as such with the Washington Secretary of State are exempt from the city license fee provision of Section [5.04.120](#) of this chapter.

5.04.040 License—Applications.

Applications for licenses required hereunder shall be made by filing a **business license** application with the **business licensing service**, in coordination with by the city clerk-treasurer or his or her designee. The application may request the residence of the applicant, the nature of the proposed business or business activity, the place where it is proposed to be conducted, and the amount of the fee prescribed by this chapter. Provided the operation of said business will be in conformance with all applicable laws, and upon payment of the required fee, said license shall be issued in accordance herewith. Any place of business located within the city may be subject to inspection by city building and fire department officials prior to issuance or renewal of a business license. Failure to permit an inspection or to comply with a valid correction notice shall result in a denial of a license to do business within the city.

5.04.050 License—Renewable annually.

The business license referred to in this chapter shall expire on the date established by the **business license service** for the business, and must be renewed annually on or before that date. Renewal of the license shall be accomplished through the master license service.

5.04.070 Separate license for each business—Posting.

The business license is specific to the business named on it and is nontransferable. A new license shall be required in the event of change of ownership of the business licensed. In case business is transacted at two or more separate places by one

person within the city, a separate application for license must be made, and a separate license for each place in which business is transacted shall be required, and the person shall pay the fees for the licensing of each place of business a fee in accordance with said classification. Each license shall, at all times, be conspicuously posted in the place of business for which it is issued. Persons licensed by the city, but without a physical location within the city must carry a copy of the license while conducting business within the city. Where a place of business of the license within the city is changed, the licensee shall notify the master license service of the change, in coordination with the city clerk. The relocation of a business may require the filing of a new master application with the master license service. Upon approval by the city clerk-treasurer of the relocation of the business, a new license shall be issued for the new place of business.

5.04.080 No person may operate under another's license.

No person to whom a license has been issued pursuant to this chapter shall suffer or allow any other person for whom a separate license is required, to operate under or display such license, nor shall any other person operate under or display such license.

5.04.090 Due date.

The licenses required by the terms of this chapter shall be procured by the licensee prior to commencing business. In the case of renewals, the license must be renewed prior to the expiration date established by the **business license service** for the business. For any license procured after the required date set forth in this chapter, the city clerk-treasurer, may assess and require, in addition to the annual license fee, a delinquency charge equal to ten percent of the annual license fee for each month or part of a month accruing between the time such license is procured and the time when the same should have been procured under the terms of this chapter.

5.04.100 License constitutes debt to city.

Any license fee due or unpaid under this chapter, and all penalties thereon, shall constitute a debt to the city, and may be collected by court proceeding in the same

manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

5.04.110 City clerk-treasurer duties.

The city clerk-treasurer shall keep full and accurate records of all funds received under the provisions of this chapter. Upon receipt of any license fee and/or penalties collected under the provisions of this chapter, the city clerk-treasurer shall deposit the same to the current expense fund.

5.04.120 Fees.

Effective for all licenses applied for on or after January 31, 2007, and all licenses expiring on or after December 31, 2007, there is levied upon and shall be collected from and paid as provided in this chapter, by every person, on account and for the privilege of engaging in business activities within the city, an annual license fee in a sum of **forty** dollars, **or as otherwise established in the City of Anacortes Unified Fee Schedule**. Business license applicants and licensees shall also pay the respective **business** license service application or renewal handling fee.

5.04.160 Violation—Separate offenses each day.

Any person who engages in or carries on any business subject to a license under this chapter without having the business licensed to do so, shall be guilty of a violation of this chapter for each day during which business is so engaged in or carried on; and any person who fails or refuses to pay the license fee or any part thereof on or before the due date, shall be deemed to be operating without having his license to do so.

5.04.170 Violation—Penalty.

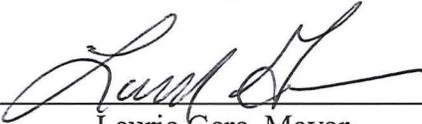
Any person violating or failing to comply with any of the provisions of this chapter, or who knowingly provides any false statement in his application for license, upon conviction thereof, shall be guilty of a crime which shall be punishable by

imprisonment for up to ninety days or shall be fined up to one thousand dollars or both such fine and imprisonment.

Section 2. Effective date. This Ordinance shall take effect from and after five (5) days after its passage and publication, as required by law.

PASSED AND APPROVED THIS 24th day of September, 2018

CITY OF ANACORTES, WASHINGTON

BY:  _____
Laurie Gere, Mayor

ATTEST:



Steven D. Hoglund, City Clerk

(Corporate Seal)

APPROVED AS TO FORM



Darcy Swetnam
City Attorney