

**CITY OF NEWPORT, WASHINGTON  
ORDINANCE NO. 2111**

**AN ORDINANCE OF THE CITY OF NEWPORT ADOPTING A NEW  
CHAPTER 5.05 OF THE NEWPORT MUNICIPAL CODE TO  
REGULATE THE ISSUANCE OF BUSINESS LICENSES WITHIN THE  
CITY, AND PROVIDING FOR OTHER MATTERS PROPERLY  
RELATED THERETO**

**WHEREAS**, the City of Newport, Pend Oreille County, Washington (the “City”) is a duly incorporated and existing City by virtue of the Constitution and laws of the state of Washington;

**WHEREAS**, the City Council of the City desires to create a chapter in the Newport Municipal Code which will regulate the issuance of business licenses within the City;

**NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF NEWPORT, PEND ORIELLE COUNTY, WASHINGTON, DO ORDAIN as follows:**

**Section 1: New Chapter 5.05 NMC.** Chapter 5.05 Newport Municipal Code is hereby adopted and added to the Newport Municipal Code, to read as follows:

**5.05.010 Purpose – Authority**

By enacting this chapter, the city is exercising its power to license for regulation and to further the purpose of providing a means of obtaining public safety and emergency contact information on existing and new commercial businesses in the city, and to assist in the effective administration of the city’s obligations under state and local laws, pursuant to RCW35.82.020 and other applicable statute and laws.

**5.05.020 Definitions.**

In construing the provisions of this chapter, the following definitions apply:

(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) Business Licensing Service or “BLS” means the office within the Washington State Department of Revenue providing business licensing services to the City

(c) "Person" means any individual, firm, partnership, company, corporation, association, receiver, assignee, trustee in bankruptcy, trust, estate, joint venture, club, joint stock company, business trust, society or any group of individuals acting as a unit.

(d) "Taxpayer" means any person who engages in business or who is required to have a business license hereunder, or who performs any act, for which a license fee or tax is imposed by this chapter.

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

#### **5.05.030 License required**

A. No person may engage in business within the city without first obtaining a valid and current business license from the city to do so. Application for the business license is made through the Business Licensing Service. The application must be accompanied by all fees due for the licenses requested on the application including the handling fee authorized by RCW [19.02.075](#).

B. If a person operates a business at multiple locations within the city, each business location must be licensed separately.

C. A change of business location within the city requires review and approval by the city of the new location, and may require reapplication for the appropriate licenses to operate at the new location.

D. A city business license is not transferable. A change in ownership of a business requires the new owner to make application for a separate license.

#### **5.05.040 Liability for damages**

The city recognizes that it cannot solve all problems relating to businesses licensed under this chapter through legislation. Thus, this chapter is an effort to make the best possible use of available resources. This chapter is not an attempt to provide complete protection to all of the city's inhabitants.

A. This chapter expressly provides for and promotes the health, safety and welfare of the general public. It does not create or designate any particular class of persons who will or should be especially protected by its terms.

B. This chapter specifically intends to place the obligation of complying with its terms on the licensee.

C. Nothing in this chapter creates the basis for any liability on the part of the city for any injury or damage resulting from the failure of a licensee to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the city.

D. By issuing a business license to a licensee, the city does not create a duty of the city to indemnify a business licensee for a wrongful act against the public, to guarantee the quality of goods, services, or expertise of a licensee, or to otherwise shift responsibility from the licensee to the city for proper training or for proper conduct of a licensee.

#### **5.05.050 Business located outside city limits**

Unless otherwise exempt, all requirements of this chapter cover and apply to any business located outside the city that engages in some business activity inside the city limits, except that only employees working within the city limits are to be counted.

#### **5.05.060 Exemptions.**

The license and license fee provisions of this chapter do not apply to the following persons, sales, or services, unless otherwise indicated:

A. A governmental entity including public and private elementary, secondary, high schools, and universities;

B. A person who delivers newspapers or periodicals;

C. A person soliciting orders from retail establishments for the delivery and sale of goods, wares and merchandise to retailers for resale unless located within the city;

D. A person or organization conducting a nonprofit enterprise when the enterprise is operated without private profit, for a public, charitable, educational, literary, fraternal or religious purpose. Nonprofits will be required to obtain business License, but will not be charged the fee.

E. A person under the age of 18 engaged in business, including but not limited to activities such as babysitting, lawnmowing or similar activities.

F. A person selling his or her own produce;

G. A person that the city is forbidden to tax by law;

H. A person engaged in the casual sale of items of personal property where the person conducting such sale is not regularly engaged in the business of selling items of personal property (for example, garage sales and bake sales);

I. A landlord; and

J. A 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. However, a person or business who qualifies for this exemption must still submit a business license registration to the city clerk or designee. The fee for this submission is \$0.00. This exemption does not apply to regulatory license requirements or activities that require a specialized permit.

#### **5.05.070 Applicability of other ordinances.**

A person exempted from obtaining a business license must comply with any other ordinances of the city relating to taxes, fees or licenses, particularly, although not so limited thereto, gambling or any other tax or license fee required to be purchased or paid for carrying on that particular activity.

#### **5.05.080 Business License fee.**

A. Every non-exempt person, firm or corporation engaged in any business, profession, trade, or occupation within the city shall pay a business license fee in accordance with the city's adopted fee schedule.

#### **5.05.090 Term.**

A business license issued pursuant to the provisions of this chapter expires on the date determined by the Business Licensing Service ("BLS"), and must be renewed by that expiration date in order to continue in business within the city. Renewal of a license is accomplished through BLS and must include all fees due for the licenses held as well as the handling fee authorized by RCW [19.02.075](#). The city license term and expiration date will be coordinated with the expiration date established for a business by BLS and the license term and fees may be prorated to synchronize with the BLS expiration. License renewals are administered by BLS in cooperation with the city.

#### **5.05.100 Right to refuse to issue license.**

A. The city clerk may refuse to issue a business license to a person if he or she deems it best for the welfare of the citizens and inhabitants of the city or violation or noncompliance of Newport ordinances. If the city clerk refuses to issue a license to a person, that person may not engage in any business within city limits.

B. If the city clerk refuses to issue a license, the aggrieved person may appeal the decision of the city clerk to the city council. The aggrieved person must file the appeal, in writing, with the city clerk within 10 days of receiving notice of the decision not to issue a license. The city council must review the appeal within 30 days of filing.

C. Upon a hearing of the facts, the city council has the right to either uphold the refusal or accept the application for license upon payment of the basic license fee and any other tax or

license imposed upon such business. The council must make its decision within 30 days of the date of their review at a city council meeting.

D. The parties are bound by the decision of the council, subject to the right of appeal to the superior court of the state of Washington, Pend Oreille County.

**5.05.110 Violation – Penalty**

A person who violates a provision of this chapter shall be deemed to have committed a Class 1 civil infraction and shall be assessed a monetary penalty as set forth in NMC 1.16.030.

**Section 2: Repealer.** All other ordinances and resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and shall have no further force or effect.

**Section 3: Severability.** If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

**Section 4: Effective Date.** This ordinance shall be in effect after its adoption and after its publication in the official newspaper of the City with an **effective date of May 02, 2023**.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NEWPORT,  
WASHINGTON, this 21st day of February, 2023.

CITY OF NEWPORT, WASHINGTON

  
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KEITH CAMPBELL, MAYOR

ATTEST:  
  
\_\_\_\_\_  
NICKOLE NORTH, CITY CLERK

Approved as to form:

OFFICE OF THE CITY ATTORNEY

By:   
\_\_\_\_\_  
MEGAN C. CLARK, CITY ATTORNEY