

ORDINANCE NO.880

AN ORDINANCE OF THE CITY OF POMEROY, WASHINGTON, AMENDING CHAPTER 5.04 OF THE POMEROY MUNICIPAL CODE UPDATING BUSINESS LICENSING REQUIREMENTS AND PROCEDURES, PROVIDING FOR DENIALS OF BUSINESS LICENSES AND APPEALS THEREFROM, ESTABLISHING PENALTIES FOR VIOLATIONS; CONTAINING A SEVERABILITY PROVISION; AND, SETTING AN EFFECTIVE DATE

WHEREAS, the Mayor and City staff recently reviewed the business licensing process and procedures set forth in Chapter 5.04 of the Pomeroy Municipal Code (“PMC”); and

WHEREAS, as existing, Chapter 5.04 PMC includes specific fees for certain types of businesses, which fees are typically established by resolution, and does not establish procedures for the City to refuse or deny licenses to any proposed business activity that is in violation of federal or state laws or that may be detrimental to the public health, safety, and/or welfare; and

WHEREAS, the Mayor and City staff recommend amending Chapter 5.04 PMC to update the process and procedures to obtain a business license in the City, to establish business license fees by resolution, to provide for denials of business licenses for activities in violation of federal or state law and/or that may be detrimental to public health, safety or welfare, and to provide for appeals of license denials; and

WHEREAS, the City Council reasonably believes that adoption of this Ordinance is in furtherance of the health, safety, and welfare of citizens of the City, now, therefore,

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

Section 1. Chapter 5.04 of the Pomeroy Municipal Code is hereby amended to
read as follows:

**Chapter 5.04
BUSINESS LICENSES**

Sections:

- 5.04.010 Purpose.**
- 5.04.020 Definitions.**
- 5.04.030 Scope.**
- 5.04.040 Business license—Required.**
- 5.04.050 Separate general business license required.**
- 5.04.060 License fees—Payment.**
- 5.04.070 General business license—Application.**
- 5.04.080 Duration of business license.**
- 5.04.090 License renewal—Filing date.**
- 5.04.100 Refund request.**
- 5.04.110 Denial, suspension or revocation of licenses.**
- 5.04.120 Display of license—Transferability.**
- 5.04.130 Licenses subject to specific controls.**
- 5.04.140 Exemptions.**
- 5.04.150 Separate offenses.**
- 5.04.160 Violation—Penalty.**
- 5.04.170 Appeal from denial of business license.**

5.04.010 Purpose.

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

5.04.020 Definitions.

As used in this chapter, the following words or terms shall have the following meanings:

- A. “Business” is meant to include all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all the devices, machines, vehicles and appurtenances used

therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the city, or anywhere else within its jurisdiction.

B. “Business license” means the document indicating the licenses and registrations that have been issued to a business through the Business Licensing Service.

D. “City” means the City of Pomeroy, Washington.

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

5.04.030 Scope.

All persons who engage in business activities or occupations within the city as set forth in this chapter are subject to the provisions of this chapter unless specifically exempted.

5.04.040 Business license—Required.

It is unlawful for any person to conduct, operate, engage in or practice any business in the city without having first obtained and being the holder of a valid and subsisting “business license” and paying the fees prescribed in this chapter.

5.04.050 Separate general business license required.

Each physical branch, establishment, or location at which business related activity is carried on must be licensed separately. Each business license authorizes the licensee to carry on, pursue, and conduct the business or business related activity only at that location identified on the license. If more than one business activity is carried on in the same building, but in a different location within the building, a separate license must be obtained for each business location in the building. If more than one business owner operates a business at the same physical location each owner must obtain a separate business license for their own business.

5.04.060 License fees—Payment.

A. There is levied to be collected, from any person engaging in business in the city, annual license fees in such amounts as are established from time to time by city council resolution for both the original application and renewal of any business license.

B. Each annual license fee is due at the time of initial application or renewal of a business license. The business license fee shall not be prorated for any part of the year.

C. Any person whose annual license fee is established based upon gross income shall be required to report their gross income for the prior year to the city clerk upon application for a renewal license. The renewal license fee for the then-current year shall be based upon the gross income report provided to the city clerk.

5.04.070 General business license—Application.

A. Application for a business license is made by submitting a completed business license application with all appropriate addenda and fees due to the city clerk.

B. The business license application must include:

1. The name of the applicant;
2. The applicant's residence;
3. The address of the principal place of business of the applicant;
4. The nature and/or type of business to be conducted;
5. The number of current employees of the applicant's business;
6. Other information as may be required by the city clerk.

5.04.080 Duration of business license.

All business licenses issued pursuant to the provision of this chapter shall expire on the thirty-first day of December of the year for which they were issued, unless sooner suspended or revoked in the manner provided in this chapter.

5.04.090 License renewal—Filing date.

Applications for renewal of a business license shall be made on or before the expiration date provided for in this chapter. All licenses issued subsequent to the original business license shall be deemed renewal licenses if there has been no discontinuance of the licensee's business operation or activities at the licensed premises. All license fees shall become delinquent if not paid in full on or before March 31 of each year, and from the date of delinquency shall bear interest at the rate of eight percent per annum.

5.04.100 Refund request.

If, pursuant to the provisions of this chapter, the applicant's request for a business license is denied, either upon original application or renewal, one hundred percent of the fee tendered may be refunded to the applicant no later than ninety days following such denial; provided, that no refund shall be made where, during the

pendency of the original application, the applicant has engaged in the business activity for which the business license was intended, and in that case such amount shall be forfeited to the city.

5.04.110 Denial, suspension or revocation of licenses.

A. The city clerk shall deny an application for a business license or refuse to license any business or activity upon a written finding that:

1. Such business or activity proposed for licensing is not in compliance with or is unlawful or prohibited by any applicable city, state, or federal law or regulation; or

2. Such business or activity proposed for licensing may be detrimental to public peace, health, or welfare.

B. The city clerk shall revoke or suspend any business license at any time on the following grounds:

1. The license was procured by fraud or false representation of facts;

2. The applicant or licensee or any of its servants, agents or employees, while acting within the scope of their employment, has violated or failed to comply with any of the ordinances of the city; provided, that this section shall not apply to traffic violations or to violations of ordinances when said violations are corrected within a period of thirty days from the date of the violation or when said violations are deemed not significant by the city clerk;

3. The licensee or any of its servants, agents or employees has been convicted of either a felony or misdemeanor involving moral turpitude, or involving fraud or an attempt to defraud while acting within the scope of their employment; or

4. The business activity for which the license was issued is or has become unlawful or prohibited by any applicable city, state, or federal law or regulation, including zoning regulation.

C. The city clerk, upon finding that one or more of the above cited conditions exists, shall suspend the business license for a period of thirty days in case of a first violation and revoke the business license in cases involving a second violation.

5.04.120 Display of license—Transferability.

A. All business licenses issued pursuant to this chapter authorizing the maintenance or conducting of any occupation, business, trade or entertainment at a specified location shall be posted in a conspicuous place at such location, and such license shall not be tampered with in any manner; provided however, that when the licensee has no established place of business and goes from place to place or from house to house, then such license must be carried on the person of such licensee while actually engaged in the licensed occupation, business or trade.

B. License—Unlawful Use.

1. It is unlawful for any person to use, or permit to be used, any license, except those issued by authority of the city clerk in conformity with the provisions of this chapter.

2. It is unlawful for any person to make, or manufacture, any licenses, except upon order of the city clerk.

C. Licenses—Not Transferable. No business license issued under provisions of this chapter shall be transferable or assignable, unless specifically provided otherwise.

D. Any city business license issued by authority of the city clerk is and remains the property of the city and, if found in the possession of any person other than the licensee or its servants, agents or employees, such license shall be immediately confiscated by officials of the city.

5.04.130 Licenses subject to specific controls.

Business licenses issued under the provisions of this chapter and the activities conducted by the licensee holding the business license are subject to all ordinances and regulations enacted by the city. In the event of a conflict between any of the provisions of this chapter and another ordinance or regulation enacted by the city to control a specific business activity, the control established by the specific ordinance or regulation supersedes any conflicting portions of this chapter.

5.04.140 Exemptions.

A. The business licensing requirements of this chapter do not apply to the following:

1. Any person, firm, company or corporation for mere delivery in the city of any property purchased or acquired in good faith for such person at his regular place of business outside the city where no intent by such person is shown to exist to evade the provisions of this chapter.

2. Any instrument of the United States, state of Washington, or political subdivision thereof with respect to the exercise of governmental functions.

3. Any farmer, gardener, or other person who shall sell, deliver or peddle any fruits, vegetables, berries, dairy products, fish, poultry, meats, or any farm produced or manufactured items by such person in this state as provided by RCW 36.71.090(1); provided, however, such farm produced or manufactured items are not prohibited by federal or state law.

4. Persons under the age of eighteen years.

B. Businesses operated by nonprofit entities properly registered as such with the Washington Secretary of State must comply with the business licensing

requirements provided in this chapter but are exempt from the business license fee established in this chapter.

5.04.150 Separate offenses.

Each day that any person, firm, corporation or association shall operate any device, vehicle or thing, or engage in any business, calling, profession, trade, occupation or activity licensed without having procured a valid existing license as provided for by this chapter may constitute a separate offense and be punished as such.

5.04.160 Violation—Penalty.

Any person, firm, corporation or association violating the terms of this chapter shall be guilty of a civil infraction and shall be punished by a fine not to exceed five hundred dollars.

5.04.170 Appeal from denial of business license.

A. In the event an application for a business license, pursuant to this chapter, is denied or refused, the applicant may appeal such decision by filing an action in the Garfield County superior court and serving a copy of the action filed on the city within twenty-one days of the date of the written denial or refusal issued by the city.

B. Once an application for business license has been denied or refused, and during the pendency of any appeal therefrom, the applicant shall not engage in the business or activity for which the license was denied or refused unless a final, nonappealable judgment of the Garfield County superior court reverses the decision of the city that is the subject of the appeal.

Section 2. 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 3. Effective Date. This ordinance shall become effective five (5) days after passage and publication of the attached summary consisting of the title, which is hereby approved.

APPROVED:


MAYOR G. PAUL MILLER

ATTEST/AUTHENTICATED:


DEPUTY CITY CLERK LORI SLAYBAUGH

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY: CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK: 10/06/2015
PASSED BY THE CITY COUNCIL: 10/06/2015
PUBLISHED: 10/14/2015
EFFECTIVE DATE: 10/19/2015
ORDINANCE NO. 880