

**CITY OF CHEWELAH
ORDINANCE 993**

**AN ORDINANCE OF THE CITY OF CHEWELAH, WASHINGTON REQUIRING
BUSINESSES OPERATING IN THE CITY OF CHEWELAH TO HAVE BUSINESS
LICENSES**

WHEREAS, The City of Chewelah has worked closely with the State of Washington to establish rules regarding the operation of businesses within the City of Chewelah and

WHEREAS, there is currently no requirement to have a business license to own or operate a business in the City of Chewelah

NOW, THEREFORE, be it ordained by the Council of the City of Chewelah, in the State of Washington, as follows:

SECTION 1:

**Chapter 5.02
GENERAL BUSINESS LICENSE**

Sections:

- 5.02.010 – Purpose.
- 5.02.020 – Definitions.
- 5.02.030 – Engaging in business.
- 5.02.040 – Business license required.
- 5.02.050 – Multiple businesses – multiple locations.
- 5.02.060 – Exemptions from general business license.
- 5.02.070 – Business license fee.
- 5.02.080 – Business license application.
- 5.02.090 – Business license renewal.

SECTION 2:

5.02.010 – Purpose.

This chapter is an exercise of the police power of the City of Chewelah and is necessary for the protection of the public health, safety and welfare of the citizens of the City, through the regulation of businesses within the City. The provisions of this chapter are deemed an exercise of the power of the City to license, for revenue, the privilege of engaging in business within city limits.

5.02.020 – Definitions.

Unless the context clearly provides otherwise, the following terms have the indicated meaning:

1. "Business" means a profession, trade, occupation, or activity carried on for a livelihood or engaged in with the object of gain, benefit, or advantage to the participant or to another person or class, directly or indirectly, for profit, but excludes the following:
 - A. Municipal, state, or federal agencies or employees;
 - B. A person employed in the city by a person engaged in business in the city, if the employer is licensed pursuant to this chapter to conduct a business in the city; and
 - C. A person transacting and carrying on a business that is exempt from city licensure under federal or state constitutions, or other law.
2. "Business license" means the license provided by this chapter
3. "Business Licensing Service" or "BLS" mean the office within the Washington State Department of Revenue providing business licensing services to the City of Chewelah.
3. "Engaging in business" means the same as defined in CMC 5.02.030
4. "Person" means any person, firm, corporation, association, partnership, venture, society, club, association, organization, or group of individuals carrying on business within city limits.
5. "City" means the City of Chewelah, Washington.
6. "Unified Business Identifier" or "UBI" means the statewide common business identification number issued through the Washington State Department of Revenue and assigned to each unique business entity in the state of Washington.

5.02.030 – 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. of this section. If an activity is not listed, whether it constitutes engaging in business in the City must 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 to 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. of this section.

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 person benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

5.02.040 – Business license required – not transferable.

No person may engage in any business within City limits without first obtaining and being the holder of a valid and current business license pursuant to the provisions of this chapter unless otherwise expressly exempted from the license requirement. The license required by this chapter is in addition to any other license, permit, or authorization required by any other chapter in this title.

1. The business license is personal may not be transferred. No person may engage in business within the City under another person's license, and no person may allow another person to engage in business within the City under their license.

2. If a person wishes to change the physical location of their business inside the City, they must inform the Business Licensing Service (BLS) sufficiently before the intended move to allow BLS to notify the City for their review and approval of the new location. Business may not commence at the new location until approved by the City.

3. If a business is sold to another owner, the new owner must obtain their own business license before engaging in business in the City under the acquired business.

5.02.050 – Multiple businesses – multiple locations.

1. A person operating two or more separate businesses, each under a separate Unified Business Identifier (UBI), must obtain a separate City business license for each such separate business.

5.02.060 – Exemptions

The following are exempt from the fee or license requirement of this chapter, as indicated below:

1. 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, must submit a business license registration as otherwise required, but be exempted from the City business license fee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

2. Businesses that have been granted a tax exemption by the federal Internal Revenue Service (IRS) under a provision of 26 USC § 501(c) must obtain a business license from the City but will be exempt from the City's business license fee, provided the business submits a copy of the tax exemption determination letter issued them by the IRS as part of their license application.

A. Organizations assumed by the IRS to qualify for the tax exemption without having to apply for a determination and for which no determination letter is normally issued, such as religious organizations under 26 USC § 501(c)(3), are fully exempt from the City's license requirement.

B. Businesses which must provide the tax exemption determination to qualify for the no fee business license under subsection 2. of this section but fail to do so must comply with the full licensing requirements, including paying the full fee.

3. Persons which must obtain a regulatory license under any other chapter in this Title 5 of the Chewelah municipal code are exempt from the general business license requirement.

5.02.070 – Business license fee.

An annual fee of \$25.00 is due for the City's general business license and must accompany the application for and renewal of the license, as provided for in this chapter. The City Council will change the fee amount by resolution.

5.02.080 – Business license application.

1. Application for a City general business license is made by submitting a business license application to the Business Licensing Service (BLS). The application must include all information required for each license requested, the total license fees due for all licenses, and the application handling fee required by RCW 19.02.075.
2. The BLS will provide the information from the business license application to the City for review and evaluation whether to approve the application. The duly authorized representative of the City may contact the applicant directly to request any additional information as needed to properly evaluate the application.
 - A. If the license application is approved, the City will notify the BLS to issue the license to the applicant.
 - B. If the license application is denied, the City will notify the applicant directly. A denied applicant may appeal the decision to the City Council as provided for in CMC 5.02.100.

5.02.090 – Business license renewal.

The City's business license expires on the date established by the Business Licensing Service (BLS) and must be renewed on or before that date to continue engaging in business in the City.

1. Application for renewal of the business license is made by submitting a license renewal application to the BLS. The renewal application must include all information required to renew each license involved, the total fees due for all licenses, and the renewal application handling fee required by RCW 19.02.075.
2. The license term and respective fee amount may be prorated as necessary to synchronize the license expiration date with the expiration of the business license account maintained by the BLS.
3. Failure to complete the license renewal by the expiration date will incur the late renewal penalty required by RCW 19.02.085.
4. Failure to complete the license renewal within 120 days after the license expiration will result in the cancellation of the license and will require submitting a new application for licensure, as provided in this chapter, to engage in business in the City. The City may require payment of all past due amounts prior to approving the new application.

5.02.100 – License suspension, denial, cancellation, or revocation.

1. A business license may be denied, suspended or revoked by the clerk whenever the licensee or any of its officers, directors, agents, owners or employees fails or have failed:

- A. To show compliance with all requirements to be granted a license by the City;
- B. To maintain the licensed premises or business activity in compliance with applicable health, building, fire, zoning (including legal nonconforming uses) or safety laws, ordinances, or regulations;
- C. To comply with the requirements of this chapter. Any suspension will remain in effect until the conditions causing the suspension are cured and reasonable measures are taken to ensure that those conditions will not recur; or
- D. To renew a business license within 120 days after the expiration date of the license.

2. The City must notify the applicant or licensee of the denial, suspension, or revocation of a license in writing by certified mail sent to the last mailing address provided by the applicant or licensee. The notice must include a summary of the complaints, objections and information considered by the City and the reason(s) for the action. The notice is assumed to have been received no later than 5 business days after the certified mail has been posted.

3. The decision to deny, suspend, cancel, or revoke the license may be appealed to the City in writing, posted in the U.S. Mail, addressed to the City at 301 E. Clay, P.O. Box 258, Chewelah, WA 99109, within seven business days of the date of receipt of the notice of denial, suspension, cancellation, or revocation.

PASSED AND ADOPTED BY THE CITY OF CHEWELAH COUNCIL May 1, 2024.

M. Gregory McCunn, Mayor

Julie Culverwell, Clerk/Treasurer