

**CITY OF GRANITE FALLS
ORDINANCE NO. 818-2011**

AN ORDINANCE OF THE CITY OF GRANITE FALLS, WASHINGTON, RELATING TO THE CITY'S BUSINESS LICENSE PROVISIONS UNDER CHAPTER 5.28 OF THE GRANITE FALLS MUNICIPAL CODE (GFMC); REPEALING AND REPLACING CURRENT GFMC CHAPTER 5.28; REPEALING GFMC CHAPTER 5.02; AND REPEALING SECTIONS 1, 2, 3, 4, 5, AND 46 OF ORDINANCE NO. 151, SECTION 2 OF ORDINANCE NO. 153, ORDINANCE NO. 404, ORDINANCE NO. 424, ORDINANCE NO. 676-03, ORDINANCE NO. 689-04 AND ORDINANCE NO. 783-09.

WHEREAS, the processing and issuance of business licenses is currently regulated by three chapters of the Granite Falls Municipal Code (GFMC Chapters 5.02, 5.28 and 5.30); and

WHEREAS, the City Council desires to streamline and merge the regulation of the processing and issuance of business licenses into one chapter of the Granite Falls Municipal Code; and

WHEREAS, under current GFMC Chapter 5.28, the City Council considers and determines whether to approve any business license application; and

WHEREAS, the City currently utilizes the Washington State Department of Licensing Master License Service with regard to all business license applications; and

WHEREAS; the City Council finds that it is in the best interest of the community to repeal current GFMC Chapter 5.28 and replace it with a revised GFMC Chapter 5.28 that is consistent with the State Department of Licensing Master License Service and that makes the decision to approve a business license application an administrative decision of the City Clerk; and

WHEREAS, the City Council finds that it is in the best interest of the community to repeal GFMC Chapter 5.02 regarding business license fees and to incorporate the business license fee structure into new GFMC Chapter 5.28;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANITE FALLS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Current GFMC Chapter 5.28 is hereby repealed in its entirety and replaced by the following:

Chapter 5.28
BUSINESS LICENSES AND REGULATIONS

Sections:

- 5.28.010 Purpose
- 5.28.020 Definitions
- 5.28.030 License required
- 5.28.040 Exemptions
- 5.28.050 City clerk as license officer
- 5.28.060 Procedure for obtaining license
- 5.28.070 Procedure for issuance of license
- 5.28.080 License fees
- 5.28.090 Term and renewal of license
- 5.28.100 License late penalty
- 5.28.110 License posting and change of address
- 5.28.120 License transferability - sale of business
- 5.28.130 Suspension or revocation of license - grounds
- 5.28.140 Appeal and hearing
- 5.28.150 Judicial review of administrative appeal decision
- 5.28.160 Subsequent application
- 5.28.170 Examinations of business premises
- 5.28.180 Mailing of notices
- 5.28.190 Violations
- 5.28.200 Penalties

5.28.010 Purpose.

The purpose of business licensing and regulations is to provide a means for obtaining public information, compile statistical information on existing and new businesses in the city, ensure the legal conduct of businesses, and assist in the effective administration of city ordinances relating to health, fire and building codes, zoning and other codes of the city.

5.28.020 Definitions.

For the purpose of this chapter and unless otherwise declared or clearly apparent from the context, the following definitions shall be applied:

“Business” shall include without limitation:

- (1) All activities, occupations, pursuits, sales, services or professions, engaged in or in premises located within the city with the object of gain, benefit, advantage or profit to the business enterprise or person or to

another person or class, directly or indirectly, regardless where their permanent location of business is located;

(2) The rental and/or leasing of commercial or industrial properties;

(3) Business activities of nonresident businesses and specifically:

(i) Sales or services that are solicited or performed by the physical presence of business representatives within the city;

(ii) General and specialty contractors who perform work in or on premises located within the city.

“City” means the city of Granite Falls.

“City clerk” means the city clerk for the city or the clerk’s designee.

“Employee” means any person employed at any business location within the city, and/or any person furnishing and/or performing services within the city, and in addition thereto shall include all persons who are self-employed.

“Engage in” or “engaging in” means commencing, conducting or continuing in any business activity including soliciting business within the city or using either a business telephone number or business address within the city. It also includes 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.

“Nonresident business” means any business which is not occupying a fixed place of operation within the city.

“Person” means any individual, partnership, corporation or other entity or group of persons however organized.

“Premises” is meant to include all lands, structures and places, and also any personal property which either is affixed to, or is used in connection with any such business conducted on such premises.

“Taxpayer” includes any individual, group of individuals, corporation or association required to have a business license hereunder, or liable for any license fee or tax, for the collection of any license fee or tax, for the collection of any business fee or tax hereunder or who engages in any

business, or who performs any act, for which a license fee or tax is imposed by this chapter.

Words in the singular number shall include the plural, and the plural shall include the singular. Words of one gender shall include the other gender.

5.28.030 License required.

It is unlawful for any person to conduct, operate, engage in or practice any business within the city without first obtaining or maintaining a valid business license issued under the provisions of this chapter.

(A) Single business - multiple locations. If a business actively operates from more than one location in the city, a separate license shall be required for each location, provided however, warehouses, distributing plants and/or storage yards used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be a separate place of business. Location of such warehouse, distributing plants and/or storage yard shall be provided to the city clerk, and must comply with the provisions of all applicable city codes, law and/or regulations.

(B) Single location - multiple nature of business. If more than one separate business is conducted on a single premise within the city, a separate license shall be required for each business.

(C) Applicability to subcontractors. All subcontractors shall be subject to this chapter and shall obtain a separate license as provided in this chapter, and they are not privileged to operate under the prime contractor's license.

(D) Firms with two or more licensed members. Whenever a firm is established in any of the various professions in which two or more members of the firm are licensed under State law to practice such profession, a separate license shall be required for each member.

(E) Businesses located outside the city limits. As to any businesses located outside the city and furnishing and performing services within the city, a business license shall be required, provided one or more employees of said business perform any part or all of their duties within the city.

(F) Neither the filing of an application for a license or the renewal thereof, nor payment of any application or renewal fee, shall authorize a

person to engage in or conduct a business until such license has been granted or renewed.

5.28.040 Exemptions.

The following shall be exempt from the licensing provisions of this chapter:

(A) Nonprofit activities carried on by religious, charitable, educational, benevolent, fraternal or social organizations which have been determined by the Internal Revenue Service of the United States to be exempt from the payment of income tax;

(B) The performance of governmental or proprietary functions by any instrumentality of the United States, the state of Washington, or any political subdivision thereof;

(C) Sales by farmers or gardeners of their own farm products raised and grown exclusively upon lands owned or occupied by them within the state;

(D) Casual or isolated sales, including garage sales conducted on residential premises in compliance with this code;

(E) The delivery of goods by vehicles to a customer or client by a business where the sale occurred on a business premises outside of the city and the only event occurring within the city is a delivery;

(F) Taxi, limousine, airporter, or similar service where the business operates from premises located outside the city;

(G) Sales of goods or services by mail, telephone, Internet or similar means where the seller operates from premises located outside the city and the only event occurring within the city is receipt of such goods and services;

(H) Provision of Internet or wireless phone services where the provider operates from premises located outside of the city and the only event occurring within the city is receipt of such services.

5.28.050 City clerk as license officer.

The city clerk in coordination with the Washington State Department of Licensing's Master License Service shall collect all license fees, process

applications and issue licenses in the name of the city to all persons qualified under the provisions of this chapter and shall:

- (A) Adopt all forms and prescribe the information to be provided;
- (B) Investigate and determine the eligibility of any applicant for a license as prescribed herein;
- (C) Notify any applicant of the acceptance or rejection of the application;
- (D) Ensure that each license is numbered, and shows the business name, location, the name of the licensee authorized to conduct or engage in business and the expiration date of the license.

5.28.060 Procedure for obtaining license.

(A) Application for a business license shall be made by filing a master application through the Department of Licensing's Master License Service, in coordination with the city clerk, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter. Persons applying for a license must pay fees as set forth in GFMC 5.02.020, and the Master License Service's handling fee. A business license must be approved by the city before a business commences operation within the city. The application may include the following information:

- (1) The nature of the business, its proposed address and telephone number;
- (2) The names, addresses and telephone numbers of all owners or officers of the business (or their registered agent);
- (3) The number of employees employed by the business and emergency notification information;
- (4) The state tax identification number and/or copy of state contractor's license;
- (5) Copy of the Snohomish County Health District permit (if applicable);
- (6) Any other information required by the city clerk or any other city official as may be deemed reasonably necessary to determine compliance with this chapter or other applicable codes.

(B) If the applicant or the business applying for a license is regulated, licensed or certified by any other governmental agency or professional association, the application must include written evidence of good standing with the regulatory authority. In such cases the continuing validity of the city business license shall be conditioned upon compliance with the requirements of the regulatory authority.

(C) No person shall engage in any business for which a license is required under this section without being registered and licensed in compliance with the provisions of this chapter; nor shall any person holding such a business license suffer or allow any other person for whom separate license is required to operate under or display his license.

(D) The application for a license shall be accompanied by the full amount of the fee chargeable including Master License Service handling fee and late penalties, if applicable, for such license.

(E) Issuance of a business license shall not relieve the applicant from the need to comply with all other applicable city ordinances, laws and/or regulations.

(F) Certain information on business license applications may be protected from public disclosure under the provisions of RCW Chapter 42.56 and/or other applicable state and/or federal law.

(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.

5.28.070 Procedure for issuance of license.

(A) After receiving a completed application for a business license, the city clerk may forward a copy of the application to the planning department, the police department, and fire department, and/or other governmental agencies for their review.

(B) The departments shall review the completed application and obtain additional information from the applicant as needed, inspect the premises proposed to be operated when deemed necessary, and shall make written verification to the city clerk that such application and premises comply with the laws and regulations of the city. No license may be issued without such verification.

(C) An application for a business license shall be denied if:

(1) It contains a material omission of fact, misrepresentation or fraud;

(2) The applicant has been convicted of a felony and if the time elapsed since the felony is less than 10 years and the felony for which the applicant was convicted directly relates to the specific business for which the license is sought;

(3) The premises on or in which the business will be operated violates a building, zoning, fire or any other applicable law and/or regulation of the City;

(4) The applicant has not received or has been denied a land use permit to operate the proposed business at the address proposed;

(5) The business for which the license is sought will result in a danger to the public health, safety or welfare, or the violation of any federal, state and/or local law and/or regulations; or

(6) The applicant has had a similar license revoked by the city within a period of one year prior to the date of making application for a license hereunder; provided, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist.

(D) After review and approval of the completed application by all of the appropriate departments, the State Department of Licensing's Master License Service in coordination with the city clerk shall issue the applicable license or licenses authorized by this chapter.

(F) When the city clerk determines that there is cause for denial of any business license application, the city clerk shall notify the applicant by certified mail, return receipt requested, of the City's decision. Notice mailed to the address on file shall be deemed received three days after mailing. The notice shall specify the grounds for the denial. The applicant affected thereby shall have the right to appeal such action by filing a notice of appeal with the city clerk as provided in Section 5.28.160, Appeal and Hearing.

5.28.080 License fees.

(A) The fees for business licenses are as follows:

Annual Business License Fee	\$45.00
Annual Cabaret License Fee	\$100.00
Peddler's License Fee – weekly	\$20.00
Peddler's License Fee – seasonal (3 months)	\$45.00

Plus the State Department of Licensing's Master License Service handling fee.

(B) The license fees herein levied shall be in addition to any other fees or taxes imposed or levied in any other ordinance or title of this code, except as herein otherwise provided.

(C) City business license application fees are nonrefundable.

5.28.090 Term and renewal of license.

(A) Each city business license issued shall have an expiration date as determined by the Department of State Licensing's Master License Service, in coordination with the city.

(B) Licensees shall submit renewal applications and applicable fees by the date assigned by the Master License Service. Business license renewals are handled by the Department of State Licensing's Master License Service in coordination with the city. Renewal of the city business license requires payment of fees including handling fees. Businesses not renewing their business license by the expiration date may be subject to a late renewal penalty charged by the Master License Service.

5.28.100 License late penalty.

(A) As to any business commenced during the year, such annual business license fee shall be due and payable on the first day that such business is transacted or carried on. Failure to pay the license fee within 30 days of the date on which it is due and payable shall render the taxpayer subject to a penalty of 100 percent of the amount of the license fee for the first month of delinquency, and an additional penalty of 100 percent for each succeeding month of delinquency, but not exceeding a total penalty of 500 percent of the total amount of such license fee in any event.

(B) For any renewal license application submitted after the applicable date required in Section 5.28.090, there is assessed and there shall be collected by the city clerk, in addition to the required license fee, a delinquency charge of 100 percent of the license fee for each month or part of a month occurring between the time such application is submitted and time when the same should have been submitted under the provisions of Section 5.28.090, but not exceeding a total penalty of 500 percent of the total amount of such license fee in any event.

5.28.110 License posting and change of address.

(A) Every license granted under this chapter shall be kept on their person or posted in a conspicuous location in the place of business of the licensee.

(B) Licensee shall notify the State Department of Licensing's Master License Service in writing of any change in location of a fixed place of business or mailing address within 15 calendar days of such change. The city clerk may require the licensee to complete a new business license application and submit same for review as outlined in Section 5.28.060.

(C) Upon receipt of notification of address change and approval of a business license application, if required, a license for the new location will be issued upon receipt of the license fee.

5.28.120 License transferability - sale of business.

(A) All licenses issued pursuant to this chapter are nontransferable.

(B) 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 by filing a master application with the State Master License Service, in coordination with the city clerk.

5.28.130 Suspension or revocation of license - grounds.

(A) Depending upon the severity of any public health and safety problem presented by a violation of this chapter and based upon the recommendation of the appropriate department head, the city clerk may suspend, deny or revoke any business license when the licensee or applicant, and/or any of its owners, officers, directors, employees and/or agents does any of the following:

(1) Knowingly causes, aids, abets and/or conspires with another to cause any person to violate any of the laws of this state and/or the city which may affect or relate to the licensee's business;

(2) Has obtained or attempted to obtain the city business license by fraud, misrepresentation, and/or concealment;

(3) Has been convicted of a felony and if the time elapsed since the felony is less than 10 years and the felony for which the licensee was convicted directly relates to the specific business for which the license was sought;

(4) Fails to maintain the licensed premises and/or business activity in compliance with applicable health, building, fire, safety laws and/or regulations;

(5) Fails to comply with the requirements of this chapter or any other applicable City laws and/or regulations.

(6) Engages in unfair or deceptive acts or practices in the conduct of the business; operated the business in such a manner as to constitute breach of the peace, or menace to the health, safety or general welfare of the public; or

(7) Fails to renew a business license within 90 days after the expiration date of the license.

(B) When the city clerk determines that there is cause for suspending, denying or revoking any license issued pursuant to this chapter, the city clerk shall notify the person holding such license by certified mail, return receipt requested, of the city clerk's decision. Notice mailed to the address on file shall be deemed received three days after mailing. The notice shall specify the grounds for the suspension, denial or revocation. The suspension, denial or revocation shall become effective 10 days from the date the notice is delivered or deemed received unless the person affected thereby files a written request with the city within such 10-day period of a hearing before the city council or to such other hearing body or hearing officer as may hereafter be established by the city council.

(C) It is unlawful for any person whose license has been revoked, denied or suspended, to keep the license issued to him/her in his/her possession or under his control, and the same shall immediately be surrendered to the city clerk. When revoked or denied, the license shall be cancelled,

and when suspended the city clerk shall retain the same during the period of suspension.

(D) A business license revoked/terminated for failure to pay the annual license fee may be reinstated if payment of the amount due, together with any penalties due thereon, is made within 10 days of the date of notice, but may also require reapplication for the city license and approval by the city clerk before the revoked/terminated business may continue operation within the city.

(E) Upon suspension or revocation of any license as provided in this section, no portion of the license fee shall be returned to the licensee.

5.28.140 Appeal and hearing.

(A) Any person aggrieved by the action of the city clerk in denying, refusing to renew, suspending or revoking any license under this chapter shall have the right to appeal such action to the city council or to such other hearing body or hearing officer as may hereafter be established by the city council for the hearing of such appeals, by filing a notice of appeal with the city clerk within 10 calendar days after receiving notice of the action from which the appeal is taken.

(B) If the decision of the city clerk is appealed, the action of the city clerk shall be stayed unless continued operation of the business would cause imminent risk of harm to public health, safety or welfare.

(C) Upon receipt of a notice of appeal, the city clerk shall schedule a date for a public hearing of such appeal within 30 calendar days.

(D) The city council, hearing body or hearing officer shall hear testimony, take evidence, and may hear oral argument and receive written briefs.

(E) The decision of the city council, hearing body or hearing officer shall be final unless appealed by the filing of an appropriate action to the Snohomish County Superior Court within 10 calendar days of the date the decision is entered. Appellant shall pay the cost of reproduction of the record transcript.

(F) In the event the applicant or licensee does not follow the procedures within the time periods set forth above, the decision to deny, refuse to renew, suspend or revoke the business license shall be final.

5.28.150 Judicial review of administrative appeal decision.

The appellant or the city may obtain judicial review of the appeal decision of the city council, hearing body or hearing officer by applying for a writ of review in the Snohomish County Superior Court within 10 days from the date of the appeal decision in accordance with the procedure set forth in RCW Chapter 7.16, other applicable law, and court rules. The city shall have the same right of review from the administrative decision as does appellant. If an appeal is filed with the court under this section of a decision suspending or revoking a license, the suspension or revocation shall be stayed pending a final decision by the court.

5.28.160 Subsequent application.

The applicant or former licensee may resubmit an application previously denied, not renewed, suspended or revoked upon submission of adequate proof to the council, hearing body, or hearing officer that the reasons for an original denial, refusal to renew, suspension or revocation have been corrected. A new registration shall accompany any re-application.

5.28.170 Examinations of business premises.

City officials shall have the authority to investigate and examine all places of business licensed or subject to license under this chapter at any reasonable time for the purpose of determining whether such place of business complies with the provisions of this chapter and other applicable city laws and/or regulations.

5.28.180 Mailing of notices.

Unless as herein otherwise provided, notices required by this chapter to be mailed to any person shall be sent by regular first class mail, addressed to the address of the applicant as shown by the record of the city clerk, or if no such address is shown, to such address the city clerk is able to ascertain by reasonable effort. Notices shall be deemed received three days after mailing. Failure of the person to receive such mail notice shall not release the person from any fees or penalties thereon, nor shall such failure operate to extend any time set by the provisions of this chapter.

5.28.190 Violations.

(A) Each annual license fee herein provided for shall become due and payable each year on the date determined by the State Department of Licensing's Master License Service, in coordination with the city.

(B) If any taxpayer fails, neglects or refuses to file application for a business license and to pay any license fee as and when required herein, the city clerk is authorized to mail notice to such taxpayer of the amount of the license fee and any penalties provided. The amounts determined thereon shall thereupon become the license fee and shall remain immediately due and payable.

(C) Any license fee or tax due, unpaid, and delinquent under this chapter, and all penalties thereon, may be collected by civil action, which penalty shall be in addition to any and all other existing remedies and penalties.

5.28.200 Penalties.

(A) It shall be unlawful for any person liable for fees under this chapter:

(1) To violate or fail to comply with any of the provisions of this chapter;

(2) To make any false statement on any license application;

(3) To aid or abet any person in any attempt to evade payment of a license fee; or

(4) To testify falsely in any investigation, audit, or proceeding conducted pursuant to this chapter.

(B) Any person violating or failing to comply with any of the provisions of this chapter, with the exception of the provisions of Section 5.28.100 regarding license late penalties, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in an amount not to exceed \$1,000 or by imprisonment for a term not exceeding 90 days, or by both such fine and imprisonment, which penalty shall be in addition to any other penalties provided for herein.

(C) Any person who engages in or carries on any business without the necessary business license under this chapter shall be guilty of a separate violation of this chapter for each day during which the business is so operated.

(D) Penalties or punishments provided in this chapter shall be in addition to all other penalties provided by law. Nothing in this chapter limits the right of the city to pursue other lawful, criminal, civil or

equitable remedies to abate, discontinue, correct or discourage unlawful acts under or in violation of this chapter.

Section 2. GFMC Chapter 5.02 is hereby repealed in its entirety.

Section 3. **Repealer.** The following ordinances or sections of ordinances are repealed:

- (A) Sections 1, 2, 3, 4, 5, and 46 of Ordinance No. 151.
- (B) Section 2 of Ordinance No. 153.
- (C) Ordinance No. 404.
- (D) Ordinance No. 424.
- (E) Ordinance No. 676-03.
- (F) Ordinance No. 689-04.
- (G) Ordinance No. 783-09.


Additionally, all other ordinances or parts of other ordinances that are inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. **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 5. **Publication and Summary.** This Ordinance or summary thereof consisting of the title shall be published in the official newspaper of the City.

Section 6. **Effective Date.** This Ordinance shall be in full force and effect five (5) days after publication of the summary consisting of the title.

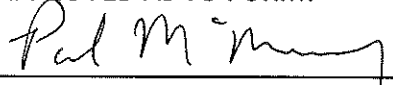
Said Ordinance was passed in open session by the City Council of the City of Granite Falls on the 6th day of April, 2011, and signed in authentication of its passage this 7th day of April, 2011.


SHEIKH HAROON SALEEM, Mayor

ATTEST:


DARLA REESE, City Clerk

APPROVED AS TO FORM:



PAUL MCMURRAY, City Attorney

DATE OF FIRST READING:

3/16/11

DATE OF SECOND AND FINAL READING:

4/6/11

DATE OF PUBLICATION:

4/10/11

EFFECTIVE DATE:

4/15/11