

CITY OF YELM  
ORDINANCE NO. 1046

AN ORDINANCE OF THE CITY OF YELM  
AMENDING TITLE 5 OF THE YELM MUNICIPAL CODE, UPDATING BUSINESS LICENSING REQUIREMENTS AND  
PROCEDURES, AND ADOPTING THE NEW MODEL BUSINESS LICENSE ORDINANCE AS REQUIRED BY CHAPTER 35.90 RCW

**WHEREAS**, the 2017 State Legislature passed Engrossed House Bill (EHB) 2005, requiring all cities with business licenses to administer their business licensing through the state's Business Licensing System (BLS);

**WHEREAS**, EHB 2005, now codified as Chapter 35.90 RCW, requires Washington Cities and Towns with business licenses to create a model business license ordinance with a minimum threshold and a definition of "engaging in business"; and

**WHEREAS**, the Department of Revenue and City staff recently reviewed the business licensing process and procedures set forth in Title 5 of the Yelm Municipal Code (YMC) and;

**WHEREAS**, City staff recommend amending Title 5 YMC to update the process and procedures to obtain business licenses through a combined license application and renewal process, to have that application process directed through the Department of Revenue Business Licensing System,

**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 YELM DOES ORDAIN AS FOLLOWS:

Section 1. The Business Licenses and Regulations Code Section 5.02.010 YMC is hereby amended as follows:

**5.02.010 Definitions.**

The following definitions shall apply in construing the provisions of this chapter, except where otherwise declared or clearly apparent from the context:

- A. "Business," "occupation" or "pursuit" means and includes all home occupations, wholesalers, retailers, service providers, towing operators, peddlers, canvassers, solicitors, for-hire vehicles, limousine services, pawnbrokers, secondhand dealers and junk dealers engaged in with the object of economic gain, benefit or advantage to the person, firm or corporation, or to another person or class, directly or indirectly, whether part-time or full-time, whether resident or nonresident except those businesses or activities for which licenses of franchises are required by any other chapter or section of the Yelm Municipal Code as now or hereafter enacted or amended.
- B. "Canvasser," "peddler," or "solicitor" is defined as solicitor.
- C. "City" means the city of Yelm.
- D. "Corporation." See "Person."
- E. "Director" means the ~~city clerk/treasurer~~ Finance Director of the city of Yelm.
- F. "Driver" and "operator" mean the person physically engaged in driving a for-hire vehicle, whether or not the person is the owner of or has any financial interest in the vehicle.
- G. "Engage in business" means commence, conduct, or continue 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.
- H. "Firm." See "Person."

I. "For-hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except chartered and scheduled buses, vehicles not for hire by the general public such as vans operated by hotels, employers, churches, schools and retirement facilities and ride share vehicles. The term primarily includes taxicabs and limousines.

J. "Limousine" means a chauffeur-driven, unmetered, unmarked luxury motor vehicle pre-arranged for transportation meeting the definition in RCW 46.04.274. Limousines differ from "taxis" in that they are for the exclusive use of the person(s) paying the pre-arranged fare, are unmetered, unmarked, and are not available for spontaneous hire.

K. "Occupational permit" is an [additional](#) requirement for certain [businesses performing](#) occupations, that by their nature present a heightened public safety risk, including: for-hire vehicle driver, locksmith, or solicitor.

L. "Operator." See "Driver."

M. "Peddler." See "Solicitor."

N. "Person" means any natural person of any gender, firms, corporations, partnerships or associations either acting by themselves or by servant, agent or employee. The singular shall include the plural.

O. "Person," "firm," or "corporation," used interchangeably in this chapter, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, canvasser, peddler, solicitor, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof, for whom a valid business license may be required therefrom under the provisions of this chapter.

P. "Pursuit." See "Business."

Q. "Solicitor" within the meaning of this chapter is any person who, either as a principal or agent, goes from door to door or from place to place and enters upon any private property within the city and thereon engages in any of the following activities:

1. Sells, takes orders for, or offers to sell or take orders for, any goods, wares or merchandise whether or not collecting in advance for such goods, wares or merchandise; and/or
2. Sells, takes orders for, or offers to sell or take orders for services, whether or not collecting in advance for the performance of such services; and/or
3. Sells, takes orders for, or offers to sell or take orders for the making, manufacturing, or repairing of any article or thing whatsoever, whether or not collecting in advance for the performance of such services; and/or
4. Seeks contribution or donations.

R. "Towing operator" is anyone engaged in the business of offering towing service by use of a vehicle wrecker or by a vehicle adapted to that purpose, whereby motor vehicles are towed or are otherwise removed from the place where they are disabled.

S. "Home occupation" means any activity conducted for financial gain or profit in a dwelling unit, and which activity is not generally or customarily characteristic of activities for which dwelling units are intended or designed; such activity is clearly incidental or secondary to the residential use of a dwelling unit; and is conducted only by persons residing in the dwelling unit; provided, however, that neither the conduct of a "garage sale" nor the operation of a "family day-care home" is defined as a home occupation. (Ord. 996 § 2, 2015; Ord. 953 § 1, 2012; Ord. 820 § 3, 2004).

Section 2. The Business Licenses and Regulations Code Section 5.02.035 YMC is hereby amended as follows:

**5.02.035 Home occupation permit.**

No person shall operate a business in their home within the city without first obtaining a permit from the city. [The home occupation permit is in addition to the business license provided for in this chapter.](#) (Ord. 996 § 2, 2015; Ord. 953 § 1, 2012).

Section 3. The Business Licenses and Regulations Code Section 5.02.040 YMC is hereby amended as follows:

**5.02.040 Application and renewal.**

Application for a business license shall be made ~~with the city of Yelm, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter~~ through the Business Licensing Service of the Washington State Department of Revenue.

Application for an occupational permit shall be made directly with the city of Yelm giving such information as is deemed necessary to enable the enforcement of this chapter. The occupational permit is in addition to the business license provided for in this chapter.

Application for a home occupation permit shall be combined with the business license application submitted to the Business Licensing Service ~~made with the city of Yelm giving such information as is deemed reasonably necessary to enable the enforcement of this chapter.~~ (Ord. 953 § 1, 2012; Ord. 820 § 3, 2004).

Section 4. The Business Licenses and Regulations Code Section 5.02.050 YMC is hereby amended as follows:

**5.02.050 License term or expiration.**

A. ~~Initial~~ licenses are issued ~~for a calendar year on an annual basis but will be set to expire on a date established by the Business Licensing Service and expire on December 31st must be renewed on or before that expiration date to continue in business in the city.~~

B. ~~Renewals are mailed annually in the month of December~~ The license term and respective fee amount may be prorated to synchronize the license expiration date with the expiration date established by the Business Licensing Service. (Ord. 820 § 3, 2004).

Section 5. The Business Licenses and Regulations Code Section 5.02.060 YMC is hereby amended as follows:

**5.02.060 Fee.**

A. Initial. The business licensing fee for any business or activity required to be licensed is \$35.00 for the first year of operation, or fraction thereof, or for the first year or fraction thereof under a new business license, whether issued for a new business or after a change in business activity requiring relicensing.

B. Renewals. The business licensing renewal fee for any business or activity required to be licensed shall be \$25.00 for the second year of such business' activity, or fraction thereof, and a like amount for each subsequent year or fraction thereof during the continued operation of such business.

C. Occupational permit fee: \$70.00 (permit \$25.00, background check fee \$35.00 and fingerprinting \$10.00 fee paid to the city). Applicants must submit driver's abstract at their expense.

~~D. Home occupation permit fee is a one time fee of \$50.00, which is in addition to the business license fee for a single amount due of \$ .00 to be submitted through the Business Licensing Service.~~

D. In addition to the city license fees, applications submitted through the Business Licensing Service must include the total fees due for all other licenses requested, as well as the application-handling fee authorized by RCW 19.02.075.

E. In addition to the city license fees, renewals submitted through the Business Licensing Service must include the total fees due for all other licenses being renewed, as well as the renewal-handling fee authorized by RCW 19.02.075. Renewals submitted through the Business Licensing Service after the license expiration date will be assessed a late renewal penalty authorized by RCW 19.02.085 in addition to all other fees due. (Ord. 953 § 1, 2012; Ord. 820 § 3, 2004).

Section 6. The Business Licenses and Regulations Code Section 5.02.070 YMC is hereby amended as follows:

**5.02.070 Exception – Applicability of provisions.**

~~This~~ Some or all of the requirements of this chapter shall not be applicable ~~to~~ as described below:

A. Nonprofit organizations as recognized by the ~~state of Washington and~~ federal government (i.e., Internal Revenue Code Section 501(c)(~~3~~)) are exempted from the city business license fee.

B. The sales of daily newspapers, whether subscriptions are taken or not, or to the dissemination of news and information is exempted from all requirements of this chapter.

C. The occupational permit fee for a for-hire or limousine license shall be waived upon showing that the applicant has procured an occupational permit for the time frame in question, with full fee paid, and background check made, from one of the cities listed in YMC 5.03.070. (Ord. 953 § 1, 2012; Ord. 820 § 3, 2004).

D. For purposes of the license 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 (or higher threshold as determined by city) and who does not maintain a place of business within the city, shall submit a business license registration to the Director or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

Section 7. The Business Licenses and Regulations Code Section 5.03.010 YMC is hereby amended as follows:

**5.03.010 Occupational – Permit – Required.**

This chapter is enacted to regulate the practice of certain occupations that, by their nature, present a heightened public safety risk to the public. The occupational permits required by this chapter are in addition to the business license that may be required under Chapter 5.02 YMC.

A. For-Hire Vehicle Driver/Operator. It is unlawful for any person to drive a for-hire vehicle and pick up any passenger within the city without first obtaining an occupational permit therefor in the manner provided by this chapter.

B. Locksmith. It is unlawful for any person to act as a locksmith in the city without first obtaining an occupational permit pursuant to the provisions of this chapter.

C. Solicitor. It is unlawful for any person to act as a solicitor, within the meaning and application of this chapter, without first obtaining an occupational permit in the manner provided by this chapter. (Ord. 953 § 3, 2012).

Section 8. The Business Licenses and Regulations Code Section 5.04.025 YMC is hereby amended as follows:

**5.04.025 Registration/license requirements.**

Application for a business license shall be made with the city of Yelm, through the Business Licensing Service, as provided for in Chapter 5.02 YMC, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter. (Ord. 820 § 3, 2004).

Section 9. The Business Licenses and Regulations Code Section 5.04.030 YMC is hereby repealed:

~~**5.04.030 Registration/license certificates.**~~

~~Initial licenses are issued for a calendar year and expire on December 31st. Renewal notices are mailed annually in the month of December.~~ (Ord. 820 § 3, 2004).

Section 10. The Business Licenses and Regulations Code Section 5.12.010 YMC is hereby amended as follows:

**5.12.010 License – Required.**

It is unlawful for any person to conduct, manage or operate a cabaret within the corporate limits of the city, and no person shall conduct, manage or operate such a cabaret within the corporate limits of the city, unless such person has a valid and subsisting license from the city so to do obtained in the manner herein provided. [This license is in addition to a business license that may be required under Chapter 5.02 YMC.](#) (Ord. 89 § 2, 1959).

Section 11. The Business Licenses and Regulations Code Section 5.18.030 YMC is hereby amended as follows:

**5.18.030 Yelm business license required.**

A. It is a violation of this chapter for any TNC to operate in the city of Yelm without a current and valid city of Yelm business license [as provided for under Chapter 5.02 YMC.](#)

B. It is a violation of this chapter for any TNC driver, who is an independent contractor affiliated with a TNC, to operate in the city of Yelm without a current and valid Yelm business license [as provided for under Chapter 5.02 YMC.](#) It is the responsibility of the TNC to communicate this requirement to TNC drivers.

C. TNC drivers must keep a copy of their business license in their vehicle when logged on and accepting rides from the TNC's digital network. It is the responsibility of the TNC to communicate this requirement to TNC drivers.

D. Except as described in subsections B and C of this section, the TNC shall have no obligations as to TNC driver business license requirements. (Ord. 1013 § 2, 2016).

Section 12. The Business Licenses and Regulations Code Section 5.18.040 YMC is hereby amended as follows:

**5.18.040 TNC license required.**

A. It is a violation of this chapter for any TNC to operate in the city of Yelm without a current and valid city of Yelm TNC license. [This license is in addition to the business license that is required under YMC 5.18.030 and Chapter 5.02 YMC.](#)

B. The administrator or designee may issue a TNC license; provided, that the TNC applicant submits an affidavit sworn under penalty of perjury, on a form provided by the city, that to the best of the applicant's knowledge, formed after a diligent inquiry into the facts, the TNC is in full compliance with this chapter, including, but not limited to, all driver, vehicle, insurance, and operational requirements.

C. The TNC license shall be effective for one year.

D. The annual TNC license fee shall be \$1,000 and shall be paid in full at the time of submitting all initial and renewal applications [to the city.](#) (Ord. 1013 § 2, 2016).

Section 13. The Business Licenses and Regulations Code Section 5.32.040 YMC is hereby amended as follows:

**5.32.040 Permits.**

A. Any person, firm or corporation selling fireworks within the city, either as a wholesale dealer or as a retail dealer, shall be required as a condition of such operation to secure from the ~~city clerk/treasurer~~ **Director's** office a permit for such sale of fireworks. The fee for such permits shall be effective for the full calendar year in which the permit is secured. The ~~city clerk/treasurer~~ **Director** is directed to issue such permits to those dealers complying with the terms of this chapter and the Chapter 70.77 RCW upon application and payment of the permit fee. [The permit is in addition to a business license that may be required under Chapter 5.02 YMC.](#)

B. The original and annual ~~license-permit~~ fee shall be \$30.00 for each separate retailer or retail outlet.

- C. A person who sells fireworks without a permit is guilty of a misdemeanor. (Ord. 600 § 1, 1997).
- B. Upon conviction of a second and subsequent offense by fine not exceeding \$100.00. (Ord. 596 § 5, 1997).

Section 14. The Business Licenses and Regulations Code Section 5.40.020 YMC is hereby amended as follows:

**5.40.020 License – Required.**

No person shall engage in any business defined in YMC 5.40.010 without first obtaining a city business license pursuant to the provisions of Chapter ~~5-045.02~~ YMC and the provisions of this chapter. (Ord. 264 § 2, 1982).

Section 15. The Business Licenses and Regulations Code Section 5.40.030 YMC is hereby amended as follows:

**5.40.030 License – Application.**

Before a license shall be issued as provided for in this chapter, an application therefor shall be filed with the ~~city clerk/treasurer~~ **Director** ~~in such form as may be prescribed from time to time by the city through the Business Licensing Service.~~ Such application shall be accompanied by the business license fee required under Chapter ~~5-045.02~~ YMC. Such application shall contain:

- A. The full name and residence address of the applicant;
- B. The location where the business is to be conducted;
- C. The mailing address of the business; ~~and~~
- D. The nature of the business to be conducted; ~~and~~
- ~~E. The place of residence and nature of business or employment of the applicant during the preceding five years.~~ (Ord. 264 § 3, 1982).

Section 16. The Business Licenses and Regulations Code Section 5.40.040 YMC is hereby amended as follows:

**5.40.040 License – Issuance.**

Within five days after receipt of ~~the information regarding~~ an application for a license ~~by a business conducting activities governed by this chapter,~~ the ~~city clerk/treasurer~~ **Director** shall refer the application to the police chief who shall investigate the character of the applicant. ~~The police chief is authorized to request such additional information from the applicant as may be necessary to properly complete the investigation.~~ The police chief shall advise the ~~city clerk/treasurer~~ **Director** in writing of the results of such investigation within 30 days after the application is filed. If, after receipt and review of the report by the police chief, the ~~city clerk/treasurer~~ **Director** shall determine that the applicant is of a law-abiding character and that the place of business is in the proper zone for the conduct of such business, the ~~city clerk/treasurer~~ **Director** shall ~~issue~~ approve a business license for the conduct of such business. (Ord. 264 § 4, 1982).

Section 17. The Business Licenses and Regulations Code Section 5.52.040 YMC is hereby amended as follows:

**5.52.040 Licensing of adult entertainment business.**

- A. No person, firm, partnership, corporation, or other entity shall operate an adult entertainment business without first obtaining a license issued pursuant to this chapter. Such license is in addition to a business license that may be required under Chapter 5.02 YMC.
- B. Prior to the issuance of a license, the applicant must be qualified according to the provisions of all applicable city ordinances, the laws of the United States and of the state of Washington. The premises must meet the requirements of all applicable laws, ordinances, and regulations including

but not limited to the International Building Code, and the Yelm Unified Development Code. All premises and devices must be inspected prior to issuance of a license.

C. An application for an adult entertainment business license must be submitted to the ~~city-clerk/treasurer~~Director in the name of the person or entity proposing to conduct the adult entertainment business on the premises and must be signed by the person and certified as true under penalty of perjury. An application must be submitted on a form supplied by the ~~city-clerk/treasurer~~Director, which must require the following information:

1. For the applicant and for each applicant control person, provide: name(s), date(s) of birth, any aliases or previous names, driver's license number(s), social security number(s), and mailing and residential address(es);
2. The business name, business address, federal tax identification number, state of Washington master business license number and business telephone number of the business or proposed business, together with a description of the nature of the business;
3. Whether the business or proposed business is the undertaking of a sole proprietorship, partnership or corporation. If a sole proprietorship, the application shall set forth the name, address, telephone number and principal occupation of the sole proprietor. If a partnership, the application shall set forth the names, addresses, telephone numbers, principal occupation and respective ownership shares of each partner, whether general, limited or silent. If a corporation, the application shall set forth the corporate name; a copy of the articles of incorporation, including date and place of incorporation; and the names, addresses, telephone numbers and principal occupations of every officer and director of the corporation, and every shareholder having more than five percent of the outstanding shares of the corporation; and evidence that the partnership or corporation is in good standing under the laws of Washington; and the name and address of the registered agent for service of process;
4. For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application;
5. For the applicant and all applicant control persons, all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions, including the dates of conviction, nature of the crime, name and location of court and disposition;
6. Whether the applicant or a partner, corporate officer, or director of the applicant holds another license under this chapter or a license for similar adult entertainment or sexually oriented business, including a motion picture theater, or a panorama, from another city, county or state, and if so, the name and address of each other licensed business;
7. A summary of the business history of the applicant and applicant control persons in owning or operating the adult entertainment or other sexually oriented business providing names, addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended and the reason for the revocation or suspension;
8. Authorization for the city of Yelm, and its agents and employees, to seek information to confirm any statements set forth in the application;
9. The location and doing-business-as name of the proposed adult entertainment business, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property;
10. Two two-inch by two-inch photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face;
11. A complete set of fingerprints for the applicant or each applicant control person, taken by the law enforcement agency for the jurisdiction, or such other entity as authorized by the law enforcement agency;
12. Each applicant shall verify, under penalty of perjury, that the information contained in the application is true;

13. A scale drawing or diagram showing the configuration of the premises for the proposed adult entertainment business, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms, arcade booths or devices, overhead lighting fixtures, and service areas shall be clearly marked on the drawing. An application for a license for an adult entertainment business must include building plans which demonstrate conformance with city adopted building code requirements.

D. Applications shall be accompanied by a nonrefundable fee as set by resolution of the city council; however, until such fee is set by such a resolution, the fee shall be \$500.00.

E. Within five days of receipt of a properly completed application for an adult entertainment business license, the ~~city clerk/treasurer~~Director shall transmit copies of such application to the police department and community development department.

F. Within 30 days of receipt of a properly completed application for an adult entertainment business license, the ~~city clerk/treasurer~~Director shall issue the license unless advised by the community development department that the use or proposed use of the premises does not have the applicable land use approval as per the city's zoning code or other applicable land use laws and regulations; or the ~~city clerk/treasurer~~Director is advised by the building department that the buildings upon the subject premises fail to meet the requirements of the building, fire, mechanical or plumbing codes applicable to the proposed use; or the ~~city clerk/treasurer~~Director is informed by the police department that the owner, partner, or stockholder holding more than five percent of the outstanding shares of the owning corporation has been convicted of or forfeited bail for any crime which may reasonably indicate a likelihood of future violation of the terms of this chapter by such owner, partner, or stockholder. Issuance of the license required in this chapter shall not constitute a waiver of or exemption from the application of any land use, building, health or safety laws pertinent to the proposed use.

G. An adult entertainment business license shall expire on December 31st of the year for which it is issued or renewed.

H. An adult entertainment business license may be renewed by submitting a new application and following the application procedure set forth hereinabove; provided, that a renewal application shall not be submitted prior to September for the following calendar year.

I. If, subsequent to the issuance of an adult entertainment business license, a person or entity acquires a significant interest based on responsibility for management or operation of the business, notice of such acquisition shall be provided in writing to the licensing administrator, no later than 21 calendar days following the acquisition. The notice required must include the information required for the original adult entertainment business license application.

J. The adult entertainment business license, if granted, must state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed adult entertainment business. The license must be posted in a conspicuous place at or near the entrance to the adult entertainment business so that it can be easily read when the business is open.

K. A person granted an adult entertainment business license under this chapter may not operate the adult entertainment business under a name not specified on the license, nor may a person operate an adult entertainment business, or an adult entertainment device under a designation or at a location not specified on the license. (Ord. 995 § 15 (Exh. D), 2015).

Section 18. The Business Licenses and Regulations Code Section 5.52.050 YMC is hereby amended as follows:

**5.52.050 Licensing of managers, entertainers, and employees.**

A. A person may not work as a manager, assistant manager, or entertainer at an adult entertainment business without a manager's or an entertainer's license from the ~~city clerk/treasurer~~Director. Such license is in addition to a business license that may be required under Chapter 5.02 YMC. An applicant for a manager's or entertainer's license must complete an application on forms provided by the ~~city~~



~~clerk/treasurer~~Director containing the information identified in this subsection. A nonrefundable license fee must accompany the application. The ~~city clerk/treasurer~~Director shall provide a copy of the application to the police department for its review, investigation and recommendation. An application for a manager's or entertainer's license must be signed by the applicant and certified to be true under penalty of perjury. The manager's or entertainer's license application must require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by the police department (or such other entity as authorized by the police department or licensing administrator), social security number, and any stage names or nicknames used in entertaining;
2. The name and address of each business at which the applicant intends to work;
3. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in the jurisdiction or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions;
4. Documentation that the applicant has attained the age of 18 years. Any two of the following are acceptable as documentation of age:
  - a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
  - b. A state issued identification card bearing the applicant's photograph and date of birth;
  - c. An official passport issued by the United States of America;
  - d. An immigration card issued by the United States of America; or
  - e. Any other identification that the licensing administrator determines to be acceptable and reliable;
5. A description of the applicant's principal activities or services to be rendered;
6. Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application, showing only the full face;
7. Authorization for the city, its agents and employees to investigate and confirm any statements in the application.

B. Applications shall be accompanied by a nonrefundable fee as set by resolution of the city council; however, until such fee is set by resolution, the fee shall be \$100.00.

C. The ~~city clerk/treasurer~~Director shall transmit the application for an entertainer's license to the police department within five days after its receipt.

D. The ~~city clerk/treasurer~~Director shall issue an adult entertainment business manager's or entertainer's license within 20 calendar days from the date the complete application and fee are received, unless the ~~city clerk/treasurer~~Director is informed by the police department that the applicant has been convicted or forfeited bail to a crime or crimes which would indicate a reasonable likelihood that the applicant would violate the terms of this chapter if so licensed; or the ~~city clerk/treasurer~~Director determines that the applicant has failed to provide any information required to be supplied according to this chapter, had made any false, misleading or fraudulent statement of material fact in the application, or had failed to meet any of the requirements for issuance of a license under this chapter. If the ~~city clerk/treasurer~~Director determines that the applicant does not qualify for the license applied for, the ~~city clerk/treasurer~~Director shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws.

E. The manager, entertainer and employee license shall expire on December 31st of each year in which it is issued or renewed.

F. The manager, entertainer and employee license may be renewed by submitting a new application and following the application procedure set forth hereinabove; provided, that a renewal application shall not be submitted prior to September for the following calendar year.

G. Every entertainer and employee shall provide his or her license to the adult entertainment business manager on duty on the premises prior to his or her performance. The manager shall retain the licenses of the entertainers readily available for inspection by the city, its agents, and employees, at any time during business hours of the adult entertainment business.

H. The ~~city clerk/treasurer~~Director may request additional information or clarification when necessary to determine compliance with this chapter.

I. The contents of an application for an entertainer's license and any additional information submitted by an applicant for an entertainer's license are confidential and will remain confidential to the extent authorized by Chapter 42.17 RCW. Nothing in this subsection prohibits the exchange of information among government agencies for law enforcement or licensing or regulatory purposes. (Ord. 995 § 15 (Exh. D), 2015).

Adopted by the Yelm City Council at a regular meeting thereof this 24<sup>th</sup> day of July, 2018

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J.W. Foster, Mayor

Authenticated:

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Lori Mossman, City Clerk



# City of Yelm

## STAFF REPORT

To: Mayor JW Foster  
Yelm City Council

From: Joseph Wolfe, Finance Director  
Yelm City Council Finance Committee

Date: July 12, 2018 (for July 24<sup>th</sup> City Council Meeting)

Subj: Updates to the City of Yelm Municipal Business Licensing Code

### **Recommendation**

City staff recommend adoption of ordinance 1046, amending Title 5 YMC to update the process and procedures to obtain business licenses through a combined license application and renewal process. The Department of Revenue Business Licensing System (BLS) will then facilitate all application and renewals.

### **Background**

In 1977, the Legislature created a combined business licensing service to streamline application and renewal of state business licenses. Since 1997, the service has also supported local business licensing. The present iteration of the state Business Licensing Service has been housed at Revenue since 2011. It is the clearing house for state and local business licensing, offering more than 400 license “endorsements” from more than 25 state agency licensing programs and dozens of cities.

In March 2018, BLS completed its tax and licensing systems replacement to be even more responsive to both business and city needs. The web-based system interface provides real-time updates to license account and on-demand access to complete state tax and local license data. The user-friendly online portal for licensing is accessible to city staff once the secure access is approved.

### **Current Situation**

The City has historically managed the municipal business licenses process in the Administrative Services Department. The Finance Department took over management of the process in 2015, and has been issuing business licenses since that time.

Engrossed House Bill 2005 passed unanimously in 2017. The bill, now codified as Chapter 35.90 RCW, requires three actions by cities with business licenses and local B&O taxes. The law:

1. Requires all cities with business licenses to administer their business licensing through the state's Business Licensing System (BLS) by 2027 or FileLocal by 2020;
2. Establishes a task force on local B&O tax service apportionment under RCW 35.102.130 to report to the Legislature by October 2018.

3. Requires cities with business licenses to establish a workgroup to create a model business license ordinance with a minimum threshold and a definition of "engaging in business" by July 2018 for adoption by all business license cities by January 1, 2019;

The minimum threshold in the model ordinance would:

1. Only apply to general business licenses, not regulatory licenses or other local taxes;
2. Allow cities to require registration with no fee for businesses under the threshold;
3. Not apply to businesses with a location in the city; and
4. Apply a minimum threshold of \$2,000 per year in the city.

Department of Revenue and City staff recently reviewed the business licensing process and procedures set forth in Title 5 of the Yelm Municipal Code (YMC). This effort allowed us to update the existing municipal code in order to comply with the requirements of Chapter 35.90 RCW and do some clarification and "cleanup" of the existing municipal code. These changes provide the legal authority to administer their business licensing through the state's Business Licensing System and otherwise comply with the requirements of Chapter 35.90 RCW.

Upon passage of this ordinance, the City of Yelm will be in line with the requirements of Chapter 35.90 RCW and a full BLS "Partner". Partners receive 100 percent of their license fees collected through BLS. Administration of business licensing through BLS will be provided at no charge to all local governments. Funding for BLS operations is produced by businesses paying a \$19 application handling fee regardless of the number of licenses being requested, including the tax registration and other required licenses. The city's license application processing is included in that same \$19. An \$11 annual renewal processing fee is charged. It is limited to one \$11 fee per business location per year whether the business has one license endorsement at the location or 100. All businesses already experience the \$19 fee when they file their application, and most hold licenses requiring an annual renewal as well, making it a familiar, cost-effective, and streamlined process for businesses working in Washington State.

#### **BLS benefits to business:**

- One-stop online business licensing for hundreds of state and city registrations
- Intuitive licensing "wizard" for new applicants
- Fast online application and renewal
- Multiple payment options, including "e-check" with no payment processing fee.
- City limits locator (GIS) to ensure licensing with the appropriate city or cities
- On-demand license printing
- No trip to city hall
- Toll-free and online customer service

#### **BLS benefits to the City**

- BLS processes all applications and renewals
- Reduced printing/ mailing costs
- Reduced city staff time
- Local regulatory control
- Increased compliance and revenue
- Instant reporting that is sortable, exportable, and "uploadable" to third-party systems.

For most cities, the Model Licensing Ordinance should be adopted by the city by October 17, 2018 with a January 2019 effective date. The City of Yelm is scheduled for early adoption of the new law on September

20, 2018, requiring passage of this ordinance now in order to meet DOR's business license fee change notice requirements.

If the City does not complete partnership with BLS, it may no longer issue business licenses after December 2022.

**Table 1**  
**Summary of Ordinance**  
**Changes to Title 5 of the Yelm Municipal Code**

Citation	Comments
5.02.010 K.	Added wording to indicate the occupational permit is separate from and in addition to the business license.
5.02.035	Added wording to indicate the Home Occupation permit is separate from and in addition to the business license.
5.02.040	<ol style="list-style-type: none"> <li>1. Changed the application process to have it directed through BLS;</li> <li>2. Added wording to show the occupational permit and application is separate from and in addition to the business license; and</li> <li>3. Added wording to allow applying for the Home Occupation permit in conjunction with the business license application through BLS.</li> </ol>
5.02.050 A. & B.	Changed the establishing of the term of the license as being done through BLS and allowed for proration to synchronize the expiration date with the BLS record.
5.02.060 D.	Added wording to allow for the combined application of both the business license and the home occupation permit.
5.02.060 E. & F.	Added two new subsections to address the combined license application and renewal process charging fees for all licenses involved, as well as the BLS handling and late renewal fees.
5.02.070	Modified the preamble to allow for variable exemption applicability of the section.
5.02.070 A.	Changed the wording to exempt nonprofit businesses only from the license fee - with the intent to allow creation of a nonprofit city business license. Also changed the required proof of status to allow for other IRS nonprofit categories other than being limited to just subparagraph (3). {{Note: If the decision is to note have a specific license for Nonprofits, this change is not required.}}
5.02.070 B.	Added wording to retain the original intent of this subsection as fully exempting the activity from any license requirement.
5.02.070 D.	Added wording necessary to implement the new model license threshold requirements.
5.03.010	Added wording to specify the occupational permit is separate from and in addition to the business license under chapter 5.02
5.04.025	Adding direction that the reference to the business license application as stated in chapter 5.04 is that which is required to be submitted through BLS, as directed in chapter 5.02.
5.04.030	Suggested to simply delete this section since the provisions for the term of the license are given in chapter 5.02, as modified to accommodate the BLS process, and do not need to be repeated here.

5.12.010	Added wording to indicate the cabaret license is separate from, and in addition to the business license under chapter 5.02.
5.18.030 A.	Clarified that the business license required of a TNC in this subsection is that from chapter 5.02.
5.18.030 B.	Clarified that the business license required of a TNC driver in this subsection is that from chapter 5.02.
5.18.040 A.	Clarified that the city TNC license is separate from and in addition to the business license required of a TNC in 5.18.030 and chapter 5.02.
5.18.040 D.	Added a designation that the TNC license fee is to be paid directly to the city.
5.32.040 A.	Added wording that the annual fireworks permit is separate from and in addition to the a business license that may be required under chapter 5.02.
5.32.040 B.	Changed the word "License" to read "permit"
5.40.020	Redirected the reference to the business license as that as provided in chapter 5.02 (rather than 5.04).
5.40.030	Modified the preamble to accommodate the business license application being submitted through BLS under chapter 5.02.
5.40.030 E.	Suggesting to delete this subsection since it appears the licensing of Pawnbrokers is actually a regular business license, albeit requiring a police background investigation before issuance. But, as a regular business license application, submitted through BLS, this particular item will not be collected through the BLS process. It is suggested that this could be included in the broad allowance being added to 5.40.040 (see next entry)
5.40.040	Adding wording to accommodate the city clerk receiving information about an application rather than the actual application itself, and added a provision for the police chief to request additional information from the applicant to properly complete the background investigation (intended to accomodate the deletion of 5.04.030 E. from the information to be gathered in the business license application). Also changed the term of the city clerk 'issuing' the license, to 'approving' the license [issuance through BLS].
5.52.040 A.	Added wording that the adult entertainment licensing is separate from and in addition to the business license that may be required under Chapter 5.02.
5.52.050 A.	Added wording that the adult entertainment individuals' licenses are separate from and in addition to a business license that may be required under chapter 5.02 (in the event that an individual might be considered both a business owner needing a business license as well as an individual needing the individual's license provided for in the section).

CITY OF YELM  
ORDINANCE NO. 1046

AN ORDINANCE OF THE CITY OF YELM  
AMENDING TITLE 5 OF THE YELM MUNICIPAL CODE, UPDATING BUSINESS LICENSING REQUIREMENTS AND  
PROCEDURES, AND ADOPTING THE NEW MODEL BUSINESS LICENSE ORDINANCE AS REQUIRED BY CHAPTER 35.90 RCW

**WHEREAS**, the 2017 State Legislature passed Engrossed House Bill (EHB) 2005, requiring all cities with business licenses to administer their business licensing through the state's Business Licensing System (BLS);

**WHEREAS**, EHB 2005, now codified as Chapter 35.90 RCW, requires Washington Cities and Towns with business licenses to create a model business license ordinance with a minimum threshold and a definition of "engaging in business"; and

**WHEREAS**, the Department of Revenue and City staff recently reviewed the business licensing process and procedures set forth in Title 5 of the Yelm Municipal Code (YMC) and;

**WHEREAS**, City staff recommend amending Title 5 YMC to update the process and procedures to obtain business licenses through a combined license application and renewal process, to have that application process directed through the Department of Revenue Business Licensing System,

**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 YELM DOES ORDAIN AS FOLLOWS:

Section 1. The Business Licenses and Regulations Code Section 5.02.010 YMC is hereby amended as follows:

**5.02.010 Definitions.**

The following definitions shall apply in construing the provisions of this chapter, except where otherwise declared or clearly apparent from the context:

- A. "Business," "occupation" or "pursuit" means and includes all home occupations, wholesalers, retailers, service providers, towing operators, peddlers, canvassers, solicitors, for-hire vehicles, limousine services, pawnbrokers, secondhand dealers and junk dealers engaged in with the object of economic gain, benefit or advantage to the person, firm or corporation, or to another person or class, directly or indirectly, whether part-time or full-time, whether resident or nonresident except those businesses or activities for which licenses of franchises are required by any other chapter or section of the Yelm Municipal Code as now or hereafter enacted or amended.
- B. "Canvasser," "peddler," or "solicitor" is defined as solicitor.
- C. "City" means the city of Yelm.
- D. "Corporation." See "Person."
- E. "Director" means the ~~city clerk/treasurer~~ Finance Director of the city of Yelm.
- F. "Driver" and "operator" mean the person physically engaged in driving a for-hire vehicle, whether or not the person is the owner of or has any financial interest in the vehicle.
- G. "Engage in business" means commence, conduct, or continue 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.
- H. "Firm." See "Person."



I. "For-hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except chartered and scheduled buses, vehicles not for hire by the general public such as vans operated by hotels, employers, churches, schools and retirement facilities and ride share vehicles. The term primarily includes taxicabs and limousines.

J. "Limousine" means a chauffeur-driven, unmetered, unmarked luxury motor vehicle pre-arranged for transportation meeting the definition in RCW 46.04.274. Limousines differ from "taxis" in that they are for the exclusive use of the person(s) paying the pre-arranged fare, are unmetered, unmarked, and are not available for spontaneous hire.

K. "Occupational permit" is an [additional](#) requirement for certain [businesses performing](#) occupations, that by their nature present a heightened public safety risk, including: for-hire vehicle driver, locksmith, or solicitor.

L. "Operator." See "Driver."

M. "Peddler." See "Solicitor."

N. "Person" means any natural person of any gender, firms, corporations, partnerships or associations either acting by themselves or by servant, agent or employee. The singular shall include the plural.

O. "Person," "firm," or "corporation," used interchangeably in this chapter, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, canvasser, peddler, solicitor, society, or any group of individuals acting as a unit, whether mutual cooperative, fraternal, nonprofit or otherwise, and includes the United States or any instrumentality thereof, for whom a valid business license may be required therefrom under the provisions of this chapter.

P. "Pursuit." See "Business."

Q. "Solicitor" within the meaning of this chapter is any person who, either as a principal or agent, goes from door to door or from place to place and enters upon any private property within the city and thereon engages in any of the following activities:

1. Sells, takes orders for, or offers to sell or take orders for, any goods, wares or merchandise whether or not collecting in advance for such goods, wares or merchandise; and/or
2. Sells, takes orders for, or offers to sell or take orders for services, whether or not collecting in advance for the performance of such services; and/or
3. Sells, takes orders for, or offers to sell or take orders for the making, manufacturing, or repairing of any article or thing whatsoever, whether or not collecting in advance for the performance of such services; and/or
4. Seeks contribution or donations.

R. "Towing operator" is anyone engaged in the business of offering towing service by use of a vehicle wrecker or by a vehicle adapted to that purpose, whereby motor vehicles are towed or are otherwise removed from the place where they are disabled.

S. "Home occupation" means any activity conducted for financial gain or profit in a dwelling unit, and which activity is not generally or customarily characteristic of activities for which dwelling units are intended or designed; such activity is clearly incidental or secondary to the residential use of a dwelling unit; and is conducted only by persons residing in the dwelling unit; provided, however, that neither the conduct of a "garage sale" nor the operation of a "family day-care home" is defined as a home occupation. (Ord. 996 § 2, 2015; Ord. 953 § 1, 2012; Ord. 820 § 3, 2004).

Section 2. The Business Licenses and Regulations Code Section 5.02.035 YMC is hereby amended as follows:

**5.02.035 Home occupation permit.**

No person shall operate a business in their home within the city without first obtaining a permit from the city. [The home occupation permit is in addition to the business license provided for in this chapter.](#) (Ord. 996 § 2, 2015; Ord. 953 § 1, 2012).

Section 3. The Business Licenses and Regulations Code Section 5.02.040 YMC is hereby amended as follows:

**5.02.040 Application and renewal.**

Application for a business license shall be made ~~with the city of Yelm, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter~~ through the Business Licensing Service of the Washington State Department of Revenue.

Application for an occupational permit shall be made directly with the city of Yelm giving such information as is deemed necessary to enable the enforcement of this chapter. The occupational permit is in addition to the business license provided for in this chapter.

Application for a home occupation permit shall be combined with the business license application submitted to the Business Licensing Service ~~made with the city of Yelm giving such information as is deemed reasonably necessary to enable the enforcement of this chapter.~~ (Ord. 953 § 1, 2012; Ord. 820 § 3, 2004).

Section 4. The Business Licenses and Regulations Code Section 5.02.050 YMC is hereby amended as follows:

**5.02.050 License term or expiration.**

A. ~~Initial~~ licenses are issued ~~for a calendar year on an annual basis but will be set to expire on a date established by the Business Licensing Service and expire on December 31st must be renewed on or before that expiration date to continue in business in the city.~~

B. ~~Renewals are mailed annually in the month of December~~ The license term and respective fee amount may be prorated to synchronize the license expiration date with the expiration date established by the Business Licensing Service. (Ord. 820 § 3, 2004).

Section 5. The Business Licenses and Regulations Code Section 5.02.060 YMC is hereby amended as follows:

**5.02.060 Fee.**

A. Initial. The business licensing fee for any business or activity required to be licensed is \$35.00 for the first year of operation, or fraction thereof, or for the first year or fraction thereof under a new business license, whether issued for a new business or after a change in business activity requiring relicensing.

B. Renewals. The business licensing renewal fee for any business or activity required to be licensed shall be \$25.00 for the second year of such business' activity, or fraction thereof, and a like amount for each subsequent year or fraction thereof during the continued operation of such business.

C. Occupational permit fee: \$70.00 (permit \$25.00, background check fee \$35.00 and fingerprinting \$10.00 fee paid to the city). Applicants must submit driver's abstract at their expense.

~~D. Home occupation permit fee is a one time fee of \$50.00, which is in addition to the business license fee for a single amount due of \$ .00 to be submitted through the Business Licensing Service.~~

D. In addition to the city license fees, applications submitted through the Business Licensing Service must include the total fees due for all other licenses requested, as well as the application-handling fee authorized by RCW 19.02.075.

E. In addition to the city license fees, renewals submitted through the Business Licensing Service must include the total fees due for all other licenses being renewed, as well as the renewal-handling fee authorized by RCW 19.02.075. Renewals submitted through the Business Licensing Service after the license expiration date will be assessed a late renewal penalty authorized by RCW 19.02.085 in addition to all other fees due. (Ord. 953 § 1, 2012; Ord. 820 § 3, 2004).

Section 6. The Business Licenses and Regulations Code Section 5.02.070 YMC is hereby amended as follows:

**5.02.070 Exception – Applicability of provisions.**

~~This~~ Some or all of the requirements of this chapter shall not be applicable ~~to~~ as described below:

A. Nonprofit organizations as recognized by the ~~state of Washington and~~ federal government (i.e., Internal Revenue Code Section 501(c)(~~3~~)) are exempted from the city business license fee.

B. The sales of daily newspapers, whether subscriptions are taken or not, or to the dissemination of news and information is exempted from all requirements of this chapter.

C. The occupational permit fee for a for-hire or limousine license shall be waived upon showing that the applicant has procured an occupational permit for the time frame in question, with full fee paid, and background check made, from one of the cities listed in YMC 5.03.070. (Ord. 953 § 1, 2012; Ord. 820 § 3, 2004).

D. For purposes of the license 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 (or higher threshold as determined by city) and who does not maintain a place of business within the city, shall submit a business license registration to the Director or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

Section 7. The Business Licenses and Regulations Code Section 5.03.010 YMC is hereby amended as follows:

**5.03.010 Occupational – Permit – Required.**

This chapter is enacted to regulate the practice of certain occupations that, by their nature, present a heightened public safety risk to the public. The occupational permits required by this chapter are in addition to the business license that may be required under Chapter 5.02 YMC.

A. For-Hire Vehicle Driver/Operator. It is unlawful for any person to drive a for-hire vehicle and pick up any passenger within the city without first obtaining an occupational permit therefor in the manner provided by this chapter.

B. Locksmith. It is unlawful for any person to act as a locksmith in the city without first obtaining an occupational permit pursuant to the provisions of this chapter.

C. Solicitor. It is unlawful for any person to act as a solicitor, within the meaning and application of this chapter, without first obtaining an occupational permit in the manner provided by this chapter. (Ord. 953 § 3, 2012).

Section 8. The Business Licenses and Regulations Code Section 5.04.025 YMC is hereby amended as follows:

**5.04.025 Registration/license requirements.**

Application for a business license shall be made with the city of Yelm, through the Business Licensing Service, as provided for in Chapter 5.02 YMC, giving such information as is deemed reasonably necessary to enable the enforcement of this chapter. (Ord. 820 § 3, 2004).

Section 9. The Business Licenses and Regulations Code Section 5.04.030 YMC is hereby repealed:

~~**5.04.030 Registration/license certificates.**~~

~~Initial licenses are issued for a calendar year and expire on December 31st. Renewal notices are mailed annually in the month of December.~~ (Ord. 820 § 3, 2004).

Section 10. The Business Licenses and Regulations Code Section 5.12.010 YMC is hereby amended as follows:

**5.12.010 License – Required.**

It is unlawful for any person to conduct, manage or operate a cabaret within the corporate limits of the city, and no person shall conduct, manage or operate such a cabaret within the corporate limits of the city, unless such person has a valid and subsisting license from the city so to do obtained in the manner herein provided. [This license is in addition to a business license that may be required under Chapter 5.02 YMC.](#) (Ord. 89 § 2, 1959).

Section 11. The Business Licenses and Regulations Code Section 5.18.030 YMC is hereby amended as follows:

**5.18.030 Yelm business license required.**

A. It is a violation of this chapter for any TNC to operate in the city of Yelm without a current and valid city of Yelm business license [as provided for under Chapter 5.02 YMC.](#)

B. It is a violation of this chapter for any TNC driver, who is an independent contractor affiliated with a TNC, to operate in the city of Yelm without a current and valid Yelm business license [as provided for under Chapter 5.02 YMC.](#) It is the responsibility of the TNC to communicate this requirement to TNC drivers.

C. TNC drivers must keep a copy of their business license in their vehicle when logged on and accepting rides from the TNC's digital network. It is the responsibility of the TNC to communicate this requirement to TNC drivers.

D. Except as described in subsections B and C of this section, the TNC shall have no obligations as to TNC driver business license requirements. (Ord. 1013 § 2, 2016).

Section 12. The Business Licenses and Regulations Code Section 5.18.040 YMC is hereby amended as follows:

**5.18.040 TNC license required.**

A. It is a violation of this chapter for any TNC to operate in the city of Yelm without a current and valid city of Yelm TNC license. [This license is in addition to the business license that is required under YMC 5.18.030 and Chapter 5.02 YMC.](#)

B. The administrator or designee may issue a TNC license; provided, that the TNC applicant submits an affidavit sworn under penalty of perjury, on a form provided by the city, that to the best of the applicant's knowledge, formed after a diligent inquiry into the facts, the TNC is in full compliance with this chapter, including, but not limited to, all driver, vehicle, insurance, and operational requirements.

C. The TNC license shall be effective for one year.

D. The annual TNC license fee shall be \$1,000 and shall be paid in full at the time of submitting all initial and renewal applications [to the city.](#) (Ord. 1013 § 2, 2016).

Section 13. The Business Licenses and Regulations Code Section 5.32.040 YMC is hereby amended as follows:

**5.32.040 Permits.**

A. Any person, firm or corporation selling fireworks within the city, either as a wholesale dealer or as a retail dealer, shall be required as a condition of such operation to secure from the ~~city clerk/treasurer~~ **Director's** office a permit for such sale of fireworks. The fee for such permits shall be effective for the full calendar year in which the permit is secured. The ~~city clerk/treasurer~~ **Director** is directed to issue such permits to those dealers complying with the terms of this chapter and the Chapter 70.77 RCW upon application and payment of the permit fee. [The permit is in addition to a business license that may be required under Chapter 5.02 YMC.](#)

B. The original and annual ~~license-permit~~ fee shall be \$30.00 for each separate retailer or retail outlet.

- C. A person who sells fireworks without a permit is guilty of a misdemeanor. (Ord. 600 § 1, 1997).
- B. Upon conviction of a second and subsequent offense by fine not exceeding \$100.00. (Ord. 596 § 5, 1997).

Section 14. The Business Licenses and Regulations Code Section 5.40.020 YMC is hereby amended as follows:

**5.40.020 License – Required.**

No person shall engage in any business defined in YMC 5.40.010 without first obtaining a city business license pursuant to the provisions of Chapter ~~5-045.02~~ YMC and the provisions of this chapter. (Ord. 264 § 2, 1982).

Section 15. The Business Licenses and Regulations Code Section 5.40.030 YMC is hereby amended as follows:

**5.40.030 License – Application.**

Before a license shall be issued as provided for in this chapter, an application therefor shall be filed with the ~~city clerk/treasurer~~ **Director** ~~in such form as may be prescribed from time to time by the city through the Business Licensing Service.~~ Such application shall be accompanied by the business license fee required under Chapter ~~5-045.02~~ YMC. Such application shall contain:

- A. The full name and residence address of the applicant;
- B. The location where the business is to be conducted;
- C. The mailing address of the business; ~~and~~
- D. The nature of the business to be conducted; ~~and~~
- ~~E. The place of residence and nature of business or employment of the applicant during the preceding five years.~~ (Ord. 264 § 3, 1982).

Section 16. The Business Licenses and Regulations Code Section 5.40.040 YMC is hereby amended as follows:

**5.40.040 License – Issuance.**

Within five days after receipt of ~~the information regarding~~ an application for a license ~~by a business conducting activities governed by this chapter,~~ the ~~city clerk/treasurer~~ **Director** shall refer the application to the police chief who shall investigate the character of the applicant. ~~The police chief is authorized to request such additional information from the applicant as may be necessary to properly complete the investigation.~~ The police chief shall advise the ~~city clerk/treasurer~~ **Director** in writing of the results of such investigation within 30 days after the application is filed. If, after receipt and review of the report by the police chief, the ~~city clerk/treasurer~~ **Director** shall determine that the applicant is of a law-abiding character and that the place of business is in the proper zone for the conduct of such business, the ~~city clerk/treasurer~~ **Director** shall ~~issue~~ approve a business license for the conduct of such business. (Ord. 264 § 4, 1982).

Section 17. The Business Licenses and Regulations Code Section 5.52.040 YMC is hereby amended as follows:

**5.52.040 Licensing of adult entertainment business.**

- A. No person, firm, partnership, corporation, or other entity shall operate an adult entertainment business without first obtaining a license issued pursuant to this chapter. Such license is in addition to a business license that may be required under Chapter 5.02 YMC.
- B. Prior to the issuance of a license, the applicant must be qualified according to the provisions of all applicable city ordinances, the laws of the United States and of the state of Washington. The premises must meet the requirements of all applicable laws, ordinances, and regulations including

but not limited to the International Building Code, and the Yelm Unified Development Code. All premises and devices must be inspected prior to issuance of a license.

C. An application for an adult entertainment business license must be submitted to the ~~city-clerk/treasurer~~Director in the name of the person or entity proposing to conduct the adult entertainment business on the premises and must be signed by the person and certified as true under penalty of perjury. An application must be submitted on a form supplied by the ~~city-clerk/treasurer~~Director, which must require the following information:

1. For the applicant and for each applicant control person, provide: name(s), date(s) of birth, any aliases or previous names, driver's license number(s), social security number(s), and mailing and residential address(es);
2. The business name, business address, federal tax identification number, state of Washington master business license number and business telephone number of the business or proposed business, together with a description of the nature of the business;
3. Whether the business or proposed business is the undertaking of a sole proprietorship, partnership or corporation. If a sole proprietorship, the application shall set forth the name, address, telephone number and principal occupation of the sole proprietor. If a partnership, the application shall set forth the names, addresses, telephone numbers, principal occupation and respective ownership shares of each partner, whether general, limited or silent. If a corporation, the application shall set forth the corporate name; a copy of the articles of incorporation, including date and place of incorporation; and the names, addresses, telephone numbers and principal occupations of every officer and director of the corporation, and every shareholder having more than five percent of the outstanding shares of the corporation; and evidence that the partnership or corporation is in good standing under the laws of Washington; and the name and address of the registered agent for service of process;
4. For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application;
5. For the applicant and all applicant control persons, all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions, including the dates of conviction, nature of the crime, name and location of court and disposition;
6. Whether the applicant or a partner, corporate officer, or director of the applicant holds another license under this chapter or a license for similar adult entertainment or sexually oriented business, including a motion picture theater, or a panorama, from another city, county or state, and if so, the name and address of each other licensed business;
7. A summary of the business history of the applicant and applicant control persons in owning or operating the adult entertainment or other sexually oriented business providing names, addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended and the reason for the revocation or suspension;
8. Authorization for the city of Yelm, and its agents and employees, to seek information to confirm any statements set forth in the application;
9. The location and doing-business-as name of the proposed adult entertainment business, including a legal description of the property, street address, and telephone number, together with the name and address of each owner and lessee of the property;
10. Two two-inch by two-inch photographs of the applicant and applicant control persons, taken within six months of the date of application showing only the full face;
11. A complete set of fingerprints for the applicant or each applicant control person, taken by the law enforcement agency for the jurisdiction, or such other entity as authorized by the law enforcement agency;
12. Each applicant shall verify, under penalty of perjury, that the information contained in the application is true;

13. A scale drawing or diagram showing the configuration of the premises for the proposed adult entertainment business, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms, arcade booths or devices, overhead lighting fixtures, and service areas shall be clearly marked on the drawing. An application for a license for an adult entertainment business must include building plans which demonstrate conformance with city adopted building code requirements.

D. Applications shall be accompanied by a nonrefundable fee as set by resolution of the city council; however, until such fee is set by such a resolution, the fee shall be \$500.00.

E. Within five days of receipt of a properly completed application for an adult entertainment business license, the ~~city clerk/treasurer~~Director shall transmit copies of such application to the police department and community development department.

F. Within 30 days of receipt of a properly completed application for an adult entertainment business license, the ~~city clerk/treasurer~~Director shall issue the license unless advised by the community development department that the use or proposed use of the premises does not have the applicable land use approval as per the city's zoning code or other applicable land use laws and regulations; or the ~~city clerk/treasurer~~Director is advised by the building department that the buildings upon the subject premises fail to meet the requirements of the building, fire, mechanical or plumbing codes applicable to the proposed use; or the ~~city clerk/treasurer~~Director is informed by the police department that the owner, partner, or stockholder holding more than five percent of the outstanding shares of the owning corporation has been convicted of or forfeited bail for any crime which may reasonably indicate a likelihood of future violation of the terms of this chapter by such owner, partner, or stockholder. Issuance of the license required in this chapter shall not constitute a waiver of or exemption from the application of any land use, building, health or safety laws pertinent to the proposed use.

G. An adult entertainment business license shall expire on December 31st of the year for which it is issued or renewed.

H. An adult entertainment business license may be renewed by submitting a new application and following the application procedure set forth hereinabove; provided, that a renewal application shall not be submitted prior to September for the following calendar year.

I. If, subsequent to the issuance of an adult entertainment business license, a person or entity acquires a significant interest based on responsibility for management or operation of the business, notice of such acquisition shall be provided in writing to the licensing administrator, no later than 21 calendar days following the acquisition. The notice required must include the information required for the original adult entertainment business license application.

J. The adult entertainment business license, if granted, must state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed adult entertainment business. The license must be posted in a conspicuous place at or near the entrance to the adult entertainment business so that it can be easily read when the business is open.

K. A person granted an adult entertainment business license under this chapter may not operate the adult entertainment business under a name not specified on the license, nor may a person operate an adult entertainment business, or an adult entertainment device under a designation or at a location not specified on the license. (Ord. 995 § 15 (Exh. D), 2015).

Section 18. The Business Licenses and Regulations Code Section 5.52.050 YMC is hereby amended as follows:

**5.52.050 Licensing of managers, entertainers, and employees.**

A. A person may not work as a manager, assistant manager, or entertainer at an adult entertainment business without a manager's or an entertainer's license from the ~~city clerk/treasurer~~Director. Such license is in addition to a business license that may be required under Chapter 5.02 YMC. An applicant for a manager's or entertainer's license must complete an application on forms provided by the ~~city~~

~~clerk/treasurer~~Director containing the information identified in this subsection. A nonrefundable license fee must accompany the application. The ~~city clerk/treasurer~~Director shall provide a copy of the application to the police department for its review, investigation and recommendation. An application for a manager's or entertainer's license must be signed by the applicant and certified to be true under penalty of perjury. The manager's or entertainer's license application must require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by the police department (or such other entity as authorized by the police department or licensing administrator), social security number, and any stage names or nicknames used in entertaining;
2. The name and address of each business at which the applicant intends to work;
3. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in the jurisdiction or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions;
4. Documentation that the applicant has attained the age of 18 years. Any two of the following are acceptable as documentation of age:
  - a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
  - b. A state issued identification card bearing the applicant's photograph and date of birth;
  - c. An official passport issued by the United States of America;
  - d. An immigration card issued by the United States of America; or
  - e. Any other identification that the licensing administrator determines to be acceptable and reliable;
5. A description of the applicant's principal activities or services to be rendered;
6. Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application, showing only the full face;
7. Authorization for the city, its agents and employees to investigate and confirm any statements in the application.

B. Applications shall be accompanied by a nonrefundable fee as set by resolution of the city council; however, until such fee is set by resolution, the fee shall be \$100.00.

C. The ~~city clerk/treasurer~~Director shall transmit the application for an entertainer's license to the police department within five days after its receipt.

D. The ~~city clerk/treasurer~~Director shall issue an adult entertainment business manager's or entertainer's license within 20 calendar days from the date the complete application and fee are received, unless the ~~city clerk/treasurer~~Director is informed by the police department that the applicant has been convicted or forfeited bail to a crime or crimes which would indicate a reasonable likelihood that the applicant would violate the terms of this chapter if so licensed; or the ~~city clerk/treasurer~~Director determines that the applicant has failed to provide any information required to be supplied according to this chapter, had made any false, misleading or fraudulent statement of material fact in the application, or had failed to meet any of the requirements for issuance of a license under this chapter. If the ~~city clerk/treasurer~~Director determines that the applicant does not qualify for the license applied for, the ~~city clerk/treasurer~~Director shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws.

E. The manager, entertainer and employee license shall expire on December 31st of each year in which it is issued or renewed.

F. The manager, entertainer and employee license may be renewed by submitting a new application and following the application procedure set forth hereinabove; provided, that a renewal application shall not be submitted prior to September for the following calendar year.

G. Every entertainer and employee shall provide his or her license to the adult entertainment business manager on duty on the premises prior to his or her performance. The manager shall retain the licenses of the entertainers readily available for inspection by the city, its agents, and employees, at any time during business hours of the adult entertainment business.



H. The ~~city clerk/treasurer~~Director may request additional information or clarification when necessary to determine compliance with this chapter.

I. The contents of an application for an entertainer's license and any additional information submitted by an applicant for an entertainer's license are confidential and will remain confidential to the extent authorized by Chapter 42.17 RCW. Nothing in this subsection prohibits the exchange of information among government agencies for law enforcement or licensing or regulatory purposes. (Ord. 995 § 15 (Exh. D), 2015).

Adopted by the Yelm City Council at a regular meeting thereof this 24<sup>th</sup> day of July, 2018

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J.W. Foster, Mayor

Authenticated:

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Lori Mossman, City Clerk